

SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE ("Agreement") is entered into as of November 15, 2010 between the California Air Resources Board ("ARB"), with its principal office at 1001 I Street, Sacramento, California 95814, and Genuine Scooters LLC. ("GENUINE") with its principal place of business at 5410 N. Damen Avenue Chicago, Illinois 60625, "the Parties" hereinafter.

I. RECITALS

(1) California Health and Safety Code section 43151 states, "No person who is a resident of, or who 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) 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, 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) 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, 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 Code of Regulations, title 13, section 2410(a)(2) states, "New off-highway recreational vehicles and engines used in such vehicles, subject to any of the standards set forth in Article 3, shall be certified for use and sale by the Air Resources Board and covered by an Executive Order, pursuant to Section 2412 of this Article."

(5) Health and Safety Code sections 39018 and 39019 define a motor vehicle as non-California certified if it does not possess an emission control system approved for use in

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California by ARB. Health and Safety Code sections 39042 and 43156 define a new motor vehicle as a vehicle that has an odometer reading of less than 7,500 miles.

(6) Pursuant to Health and Safety Code section 43154, any person who violates any provision of this part, shall be subject to a civil penalty not to exceed five thousand dollars (\$5,000) per vehicle.

(7) Prior to obtaining its California Executive Order M-146-0001 on August 11, 2008, GENUINE, through its dealer network, offered for sale and/or sold in California 2008 model-year on-road scooters and on-road scooters of two or more prior model-year designations (collectively, the "subject vehicles") for use or registration in California that were not certified for sale or use in California pursuant to Chapter 2 of Part 5 of Division 26 of the Health and Safety Code in that the subject vehicles were not certified by ARB as meeting California emissions standards. These actions on the part of GENUINE Health and Safety Code section 43151-43153 and California Code of Regulations, title 13, section 2410(a)(2).

(8) GENUINE had engaged a consultant to obtain the appropriate certifications prior to selling the subject vehicles in California. In reliance on the consultant, GENUINE believed in good faith, albeit incorrectly, that all required certifications had been obtained prior to the sale of any of the subject vehicles in California. Upon learning that the appropriate certifications in fact had not been obtained, GENUINE fully cooperated with ARB in the investigation of offers and sales of the subject vehicles to California customers.

(9) GENUINE admits the facts in recital paragraphs (1) through (8) above.

(10) GENUINE is willing to enter into this Agreement for the purpose of settlement and resolution of this matter with ARB. ARB accepts this Agreement in termination of this matter. Accordingly, the parties agree to resolve this matter completely by means of this Agreement, without the need for formal litigation.

II. TERMS AND RELEASE

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

(1) As a condition of this Settlement Agreement, GENUINE shall pay the total sum of three hundred thousand dollars (\$300,000) as a penalty to the California Air Pollution Control Fund, payable in accordance with the following schedule:

(a) Twelve thousand five hundred dollars (\$12,500) no later than May 15, 2011, and

(b) Twelve thousand five hundred dollars (\$12,500) each month thereafter, due no later than the fifteenth day of the month, starting on June 15, 2011 and continuing each month until the entire \$300,000 is paid in full. If any of these payments is late, then,

upon GENUINE's receipt of written notice from ARB, the entire remaining balance becomes immediately due and payable.

Payment shall be made by check payable to the California Air Pollution Control Fund and addressed to:

Lisa Zarubick
Air Resources Board Enforcement Division
9528 Telstar Avenue
El Monte, California 91731

(2) In addition, if the Attorney General files a civil action to enforce this settlement agreement, GENUINE shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.

(3) It is agreed that if GENUINE at any time becomes insolvent, or makes an assignment for the benefit of creditors or similar action adversely involving GENUINE, or a proceeding or petition under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt, or receivership law or statute is filed by or against GENUINE and such bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt, or receivership is not dismissed within one hundred twenty (120) days of its filing, or a trustee in bankruptcy, custodian, receiver or agent is appointed or authorized to take charge of a material portion of GENUINE's properties, the entire remaining balance becomes immediately due and payable without notice or demand.

(4) It is agreed that the penalty described in terms and release paragraph (1) is punitive in nature, rather than compensatory. Furthermore, the penalty is intended to deter and punish GENUINE for violations of state environmental statutes, and this penalty is payable to and for the benefit of ARB, a governmental unit.

(5) GENUINE agrees that it will not violate California Code of Regulations, title 13, section 2410 *et seq.* or Health and Safety Code section 43150 *et seq.* with respect to the delivery, rental, lease, sale, offer to sell, or introduction into commerce in California of non-California certified motor vehicles, all terrain vehicles, or any other nonpreempted application.

(6) This Agreement shall apply to and be binding upon GENUINE and its principals, officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, dealers, distributors, and upon ARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.

(7) Now therefore, in consideration of the payment on behalf of GENUINE in the amount of three hundred thousand dollars (\$300,000) to the California Air Pollution Control Fund, ARB hereby unconditionally and fully releases, forever discharges, and covenants not to sue GENUINE, GENUINE's parent and affiliated entities, and all of their respective present and future owners, shareholders, members, directors, officers, partners,

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employees, agents, representatives, distributors, dealers and any other person or entity who sold any of the subject vehicles in California, attorneys, predecessors, successors and assigns (collectively, "Related Persons") from and on account of any and all claims, demands, causes of action or charges of any nature whatsoever, known or unknown, suspected or unsuspected, including without limitation costs and fees of attorneys and experts, that directly and indirectly arise from or relate in any way to the sale of the subject vehicles in California, including without limitation claims for past violations of California Code of Regulations, title 13, section 2410(a)(2) and Health and Safety Code section 43150 *et seq.* that ARB may have based on the events described in paragraphs (1) - (10) of the Recitals (collectively, "Claims"). The undersigned represent that they have the authority to enter this Agreement. ARB further agrees not to pursue any additional remedies against GENUINE or any of its Related Persons in respect of the subject vehicles, including without limitation injunctive and criminal remedies, and ARB agrees not to refer any Claims to any other governmental agencies or departments in the State of California or elsewhere.

(8) This Agreement constitutes the entire agreement and understanding between ARB and GENUINE concerning the Claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreements of any kind or nature, whether written or oral, between ARB and GENUINE concerning these Claims.

(9) No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all parties to this Agreement.

(10) Advice of Counsel. Each Party to this Agreement has reviewed the Agreement independently, has had the opportunity to consult 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.

(11) This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice of law rules.

(12) Severability. Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement remains in full force and effect.

(13) Waiver. The failure of any Party to enforce any provision of this Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Agreement. The rights and remedies granted all Parties herein are cumulative and the election of one right or remedy by a Party shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Agreement or otherwise provided by law.

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(14) Captions. The captions by which the sections and subsections of this Agreement are identified are for convenience only, and shall have no effect whatsoever upon their interpretation.

(15) This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

(16) This Agreement is deemed to have been drafted equally by the Parties; it will not be interpreted for or against either party on the ground that said party drafted it.

(17) 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 399619.7). 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 \$1,200 per scooter for approximately 250 scooters. The penalty was discounted based on GENUINE's financial condition, the sales price of the scooters, the fact that this was a first time violation and GENUINE made unusually diligent efforts to comply and to cooperate 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 in this case is section 43154 because GENUINE introduced new vehicles into commerce in California that had not been certified by ARB to California emission standards.

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 vehicles were 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.

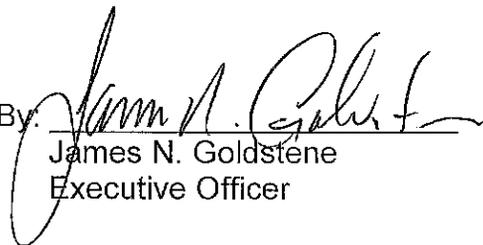
(18) GENUINE acknowledges that ARB has complied with SB 1402 in prosecuting and settling this case. Specifically, ARB has considered all relevant facts, including those listed at HSC section 43024, has explained the manner in which the penalty amount was calculated, has identified the provision of law 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.

(19) 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. The penalty was discounted based on GENUINE's financial condition, the fact that this was a first time violation and GENUINE made unusually diligent efforts to comply and to cooperate with the investigation. Penalties in future cases might be smaller or larger on a per unit basis.

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

The parties have entered into this Agreement as of the date first written above.

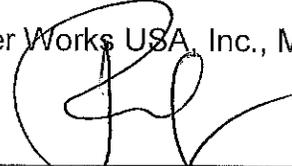
California Air Resources Board

By: 
James N. Goldstene
Executive Officer

Date: 5-27-2011

Genuine Scooters LLC

By: Scooter Works USA, Inc., Member

By: 
Philip McCaleb, President

By: 
James Kolbe, Vice President

Date: 5-13-11