

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

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IN RE Southern Honda Powersports

(a/k/a Big Red Powersports LLC)

(AQ 12-001)

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This Agreement is made between the National Highway Traffic Safety Administration ("NHTSA"), an operating component of the U.S. Department of Transportation and Southern Honda Powersports (a/k/a Big Red Powersports LLC) ("Southern Honda"), wherein they hereby administratively resolve claims for civil penalties for possible violations of various provisions of Federal law commonly known as the National Traffic and Motor Vehicle Safety Act as amended, 49 U.S.C. Chapter 301 ("Safety Act").

WHEREAS, on May 14, 2012 NHTSA issued an Information Request to Southern Honda to determine whether Southern Honda had inspected or repaired certain recalled motorcycles prior to sale and delivery in accordance with the Safety Act;

WHEREAS, on July 6, 2012, Southern Honda submitted its response to the May 14, 2012 Information Request to NHTSA;

WHEREAS, NHTSA has a potential claim that Southern Honda violated the Safety Act, including regulations thereunder, by selling and delivering certain new motorcycles in 2007 through 2012 that were subject to a recall before the recall inspections or repairs were performed and documented on the motorcycles;

WHEREAS, Southern Honda denies that it has violated the Safety Act or its implementing regulations and asserts that it is not aware of any accidents, injuries or fatalities resulting from any of the alleged actions or omissions;

WHEREAS, it is the mutual desire of NHTSA and Southern Honda to administratively resolve the civil penalties relating to the possible violations of the Safety Act and its implementing regulations as to Southern Honda's sales of certain recalled motorcycles in 2007 through 2012, including the issues explored in the May 14, 2012 Information Request under Audit Query ("AQ") 12-001 and Southern Honda's responses thereto, through a binding agreement in order to avoid the legal expenses and other costs of a protracted dispute and possible litigation;

NOW, THEREFORE, the parties agree as follows:

1. The Secretary of Transportation has the authority to compromise the amount of civil penalties under the Safety Act, 49 U.S.C. § 30165(b). The Secretary's authority has been delegated to the Administrator of NHTSA, 49 CFR 1.95.
2. Southern Honda is, and at all times relevant to this action has been, the dealer of the motorcycles at issue within the meaning of the Safety Act, as defined in 49 U.S.C. § 30102(a)(1).
3. Without NHTSA making any formal findings with respect to Southern Honda's

possible violations of the Safety Act as to sales of certain recalled motorcycles in 2007 through 2012, including, but not limited to, the issues explored in the May 14, 2012 Information Request and Southern Honda's responses thereto, Southern Honda shall, without any admission of liability or culpability but in order to resolve the dispute, pay the United States a civil penalty in the sum of \$125,000.00 (pursuant to the Safety Act, 49 U.S.C. § 30165). Southern Honda shall pay this sum as follows: One payment of \$25,000 no later than thirty (30) days following the receipt from NHTSA of a fully executed copy of this Agreement; a second payment of \$25,000 no later than February 1, 2014; a third payment of \$25,000 no later than February 1, 2015; a fourth payment of \$25,000 no later than February 1, 2016; and a fifth payment of \$25,000 no later than February 1, 2017. All payments shall be made by electronic funds transfer to the U.S. Treasury. NHTSA shall provide fund transfer account payment and routing instructions in writing to Southern Honda contemporaneously with the delivery to Southern Honda of executed copies of this Agreement.

4. Upon receipt of all the payments set forth in Paragraph 3 above, the Secretary of Transportation, by and through the Administrator of NHTSA, releases Southern Honda, including its current and former directors, officers, employees, agents, parents, subsidiaries, affiliates, successors, and assigns from liability for civil penalties pursuant to 49 U.S.C. § 30165 in connection with the possible violations of the Safety Act and its implementing regulations relating to Southern Honda's sales of certain recalled motorcycles in 2007 through 2012, including, without limiting the generality of the foregoing, the issues explored in the May 14, 2012 Information Request and

Southern Honda's responses thereto. AQ12-001 shall be promptly closed following receipt of the first payment set forth in paragraph 3 above. Pending the release described herein, NHTSA shall not take further action with respect to civil penalties in connection with the possible violations of the Safety Act and its implementing regulations relating to Southern Honda's sales of certain recalled motorcycles in 2007 through 2012, including, without limiting the generality of the foregoing, the issues explored in the May 14, 2012 Information Request and Southern Honda's responses thereto, as long as Southern Honda is in compliance with the payment terms specified in this agreement.

5. This Agreement does not release Southern Honda from civil or criminal liabilities, if any, that may be asserted by NHTSA or any other federal governmental entity or agency, other than its civil penalty liability under 49 U.S.C. § 30165 as described in paragraph 4 above.
6. The parties shall each bear their own respective attorneys' fees, costs, and expenses.
7. This Agreement shall be effective following the execution of this Agreement by the parties.
8. This Agreement constitutes the entire agreement between the parties regarding the resolution of the subject matter herein, and supersedes any and all prior or contemporaneous written or oral agreements or representations of the parties, all of which have become merged and finally integrated into this Agreement.
9. This Agreement may not be modified or waived, in whole or in part, unless such modification or waiver is in writing and executed by the parties.

10. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
11. The parties to this Agreement have the legal authority to enter into this Agreement and each party has authorized the undersigned to execute the Agreement on its own behalf.

Date: _____

SOUTHERN HONDA POWERSPORTS (A/K/A
BIG RED POWERSPORTS LLC)
1394 WORKMAN ROAD
Chattanooga, TN 37407

BIG RED POWERPORTS, LLC

By: _____/s/_____

Timothy Kelly
Chief Manager

Date: _____

By: _____/s/_____

Christopher H. Grigorian
Foley & Lardner LLP
Counsel to Southern Honda Powersports

Date: _____

NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION
US DEPARTMENT OF TRANSPORTATION

By: _____/s/_____

O. Kevin Vincent
Chief Counsel

Date: _____

NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION
US DEPARTMENT OF TRANSPORTATION

By: _____/s/_____

John Piazza
Trial Attorney