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8  
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:

12  
13 CHASSIS & TIRES REPAIR, INC.

14  
15 RESPONDENT

16  
17 TPID NO.: 1208904-01

CASE NO. IH16-009-TIR

ADMINISTRATIVE DECISION FOR  
WASTE TIRE HAULER  
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE  
SECTION 42950, ET SEQ.

AGENCY NO: 2015-011178-ADC

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19 INTRODUCTION AND PROCEDURAL HISTORY

20 This ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE  
21 PENALTIES (Administrative Decision) is based on the STIPULATION FOR ISSUANCE OF  
22 ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES  
23 (Stipulation) signed by Rafael Barajas for Chassis & Tires Repair, Inc. (RESPONDENT) and  
24 Cathy Pham Zotti, Esq, Attorney for RESPONDENT on October 19, 2016.

25 On February 25, 2016, CALRECYCLE issued RESPONDENT an ADMINISTRATIVE  
26 COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Administrative  
27 Complaint), which included penalties in the amount of \$47,000.00. RESPONDENT was  
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1 served the Administrative Complaint on March 7, 2016. RESPONDENT was provided with 15  
2 days from the date of receipt of the Administrative Complaint to request a hearing and file a  
3 "Notice of Defense/Request for Hearing" with CALRECYCLE to refute the allegations  
4 contained therein. RESPONDENT did not file a "Notice of Defense/Request for Hearing;"  
5 constituting a default pursuant to Government Code section 11520. CALRECYCLE issued  
6 RESPONDENT an Administrative Decision For Waste Tire Hauler Administrative Penalties  
7 (Administrative Decision) on March 28, 2016. On April 5, 2016, RESPONDENT was served  
8 the Administrative Decision. A Motion Requesting The Vacating Of Administrative Decision  
9 For Waste Tire Hauler Administrative Penalties dated April 12, 2016, was issued to  
10 CALRECYCLE from Cathy Pham Zotti, RESPONDENT's attorney. On July 15, 2016,  
11 CALRECYCLE issued RESPONDENT a Stipulation And Decision On Motion Requesting The  
12 Vacating Of Administrative Decision For Waste Tire Hauler Administrative Penalties and was  
13 served to RESPONDENT's attorney on July 18, 2016. Pursuant to the terms in said  
14 Stipulation and Decision, on July 19, 2016, RESPONDENT's attorney requested a hearing. A  
15 hearing was scheduled for October 13, 2016, in Riverside California. On September 28, 2016,  
16 a Notice Of Hearing Officer Assignment & Informal Hearing Procedures were issued to the  
17 Parties; and a Notice of Telephonic Status Conference was scheduled for September 28,  
18 2016, for the Parties to discuss the status of the case. On September 28, 2016, an Order On  
19 Continuance & Final Resolution Process was issued to the Parties and a Telephonic Status  
20 Conference was scheduled for October 13, 2016. The Telephonic Status Conference  
21 scheduled for October 13, 2016, was continued to October 20, 2016. The Telephonic Status  
22 Conference scheduled for October 20, 2016, was continued to November 9, 2016.

23 Pursuant to the Stipulation, and good cause appearing therefore, the following Factual  
24 Findings and Conclusions of Law are made, and the following Order is issued:

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26 **FACTUAL FINDINGS**

27 1. The Administrative Complaint was executed by Heather L. Hunt, Attorney III for  
28 CALRECYCLE, acting in her official capacity.

1           2.     CALRECYCLE has authority to regulate and conduct enforcement actions  
2 regarding Waste Tire Facilities and Waste and Used Tire Haulers within the State of California  
3 under PRC sections 42800 et seq., 42950 et seq., and attendant regulations contained in Title  
4 14 of the California Code of Regulations (CCR).

5           3.     A "Waste or Used Tire Hauler" or "Hauler" is defined as, "any person engaged in  
6 the transportation of waste or used tires, or tire casings, including haulers that the  
7 [CALRECYCLE] approved as exempt from registration pursuant to PRC section 42954." (14  
8 CCR section 18450(a)(37).)

9           4.     PRC section 42951(a) states, "[e]very person who engages in the transportation  
10 of waste or used tires shall hold a valid waste and used tire hauler registration (waste tire  
11 hauler registration), unless exempt as specified in Section 42954."

12          5.     Pursuant to PRC section 42956(b), "any person who operates a vehicle . . . that  
13 transports 10 or more tires without a valid and current waste and used tire hauler registration,  
14 as issued by [CALRECYCLE] . . . , shall be subject to the enforcement actions specified in  
15 Article 4 (commencing with [PRC] Section 42962)."

16          6.     Title 14 CCR section 18454(a) requires that, "any person hauling 10 or more  
17 used or waste tires shall apply for a waste tire hauler registration, unless exempt." Subsections  
18 (c) and (d) further provide that, "the initial waste tire hauler registration is valid form [sic] the  
19 date of issuance to January 1 of the following year . . . ." "The waste tire hauler is not  
20 authorized to haul used or waste tires after the January 1 expiration date unless the waste tire  
21 hauler has applied to renew the waste tire hauler registration prior to expiration and has  
22 received the [CALRECYCLE] issued renewal registration card(s) and vehicle decal(s)."

23          7.     Pursuant to PRC section 42955(d), A waste tire hauler registration application  
24 shall include:

25  
26                   (d) A bond in favor of the State of California in the amount of ten thousand  
27 dollars (\$10,000). Proof of bond renewal shall be submitted with the application  
for annual renewal of a waste and used tire hauler registration.

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1           8. Pursuant to 14 CCR section 18456.1(b), "The surety bond shall remain in full  
2 force and effect during all registration periods. Failure to maintain an adequate bond pursuant  
3 to [PRC] section 42955(d), shall result in automatic cancellation of the waste tire hauler  
4 registration. The cancelled registration may be reinstated by [CALRECYCLE] when a new  
5 surety bond is posted."  
6

7           9. PRC section 42961.5(c)(2) requires:

8                   Any waste and used tire hauler hauling waste or used tires for offsite  
9                   handling, altering, storage, disposal, or any combination thereof, shall  
10                   complete the California Uniform Waste and Used Tire Manifest as  
                    required by [CALRECYCLE].

11           10. The "California Uniform Waste and Used Tire Manifest" is a form developed by  
12 CALRECYCLE pursuant to PRC section 42961.5 and is also referred to as the  
13 "Comprehensive Trip Log" or "CTL." The CTL form is incorporated in the regulations by 14  
14 CCR section 18450(a)(11), and must be filled out completely and accurately, including  
15 providing the Tire Program Identification (TPID) number for the location of delivery or pick-up  
16 of each load of waste tires.

17           11. Title 14 CCR section 18460.2, subsections (b), (d), (e), and (h), provide that a  
18 registered waste tire hauler shall complete a new CTL for each pick-up or delivery of any  
19 waste or used tires, shall not transport waste or used tires without a properly completed CTL  
20 form, shall not transport waste or used tires without having a completed copy of the CTL form  
21 in the vehicle transporting the waste or used tires, shall leave one completed copy of the CTL  
22 form with the waste or used tire generator or end-use facility, and shall keep a copy of the  
23 completed CTL form.

24           12. Title 14 CCR section 18463, subsections (a), (b) and (d), provide that any waste  
25 tire hauler who intentionally or negligently violates any permit, rule, regulation, standard,  
26 requirement, or allows any violation or noncompliance with any permit, rule, regulation,  
27 standard, or requirement pursuant to PRC section 42950 et seq. relating to the generation,  
28 transportation, or disposal of used or waste tires, shall be liable for a civil penalty.

1           13.   RESPONDENT became a registered waste tire hauler on April 22, 2004, and  
2 remained a registered waste tire hauler through 2015, until CALRECYCLE cancelled  
3 RESPONDENT's waste tire hauler registration.

4           14.   At the time CALRECYCLE issued RESPONDENT its initial hauler registration,  
5 and subsequently during the annual hauler registration renewal process, RESPONDENT was  
6 provided with instructions regarding the proper completion, retention, and delivery of CTL  
7 forms or "manifest forms". At the time of RESPONDENT's initial registration and annually  
8 during the hauler registration renewal process, RESPONDENT was sent a hauler package  
9 containing the following: (1) instructions on transporting waste/used tires; (2) a complete list of  
10 hauler and manifesting regulations (Title 14, California Code of Regulations, Chapter 6); and  
11 (3) a training compact disc on the proper storage and transportation of waste/used tires.  
12 RESPONDENT was also sent a CTL Guidance Manual, explaining in detail how to properly  
13 complete the CTL form, including the requirement to "manifest" (to document on the CTL form)  
14 all waste and used tire pickups and deliveries.

15           15.   RESPONDENT has received multiple Letters of Violation (LOVs), specifically  
16 LOV's dated June 8, 2004, June 15, 2004, July 3, 2013 and September 25, 2013, regarding  
17 the non-submission of CTLs to CALRECYCLE and for errors and omissions.

18           16.   On April 22, 2015, RESPONDENT received notification from CALRECYCLE that  
19 its waste tire hauler registration had been cancelled for failing to maintain the required surety  
20 bond. Said letter informed RESPONDENT that CALRECYCLE had received a "Notice to  
21 Cancel Bond Insurance" letter from SAFECO INSURANCE COMPANY OF AMERICA  
22 indicating that RESPONDENT's Bond had been cancelled on April 14, 2014. The letter  
23 reminded RESPONDENT not to haul waste or used tires until re-applying for a new waste tire  
24 hauler registration and receiving his new decal(s) for his vehicle(s). The letter also reminded  
25 RESPONDENT of the potential for enforcement and punitive actions for a failure to comply,  
26 including the imposition of civil penalties and/or citation by law enforcement.

27           17.   On August 17, 2015, CALRECYCLE received a new Waste Tire Surety Bond  
28 issued by Lexon Insurance Company with an effective date of July 14, 2015, from

1 RESPONDENT. At that time, CALRECYCLE reinstated RESPONDENT's waste tire hauler  
 2 registration.

3 18. Between April 24, 2015 and July 14, 2015, RESPONDENT illegally hauled at  
 4 least 39 loads of 10 or more waste or used tires as an unregistered waste tire hauler, as  
 5 documented on CTLs listed in the table below:  
 6

7 Comprehensive Trip Log	8 Violation	9 Passenger Tire Equivalent	10 Load Date	11 Penalty Assessed
5375605-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	51	June 16, 2015	\$500
5375606-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	80	June 10, 2015	\$500
5375607-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	64	June 09, 2015	\$500
5375608-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	74	June 11, 2015	\$500
5375611-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	82	May 22, 2015	\$500
5375611-C	Unregistered Tire Hauling, 41-100 Waste/Used Tires	62	May 29, 2015	\$500
5375612-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	May 29, 2015	\$500
5375613-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	87	June 02, 2015	\$500
5375614-B	Unregistered Tire Hauling, more than 100 Waste/Used Tires	103	June 01, 2015	\$1,000
5375616-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	71	June 4, 2015	\$500
5375616-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	92	June 12, 2015	\$500
5375623-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	63	May 6, 2015	\$500
5375624-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	May 8, 2015	\$500
5375625-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	May 12, 2015	\$500
5375625-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	60	May 13, 2015	\$500
5375625-C	Unregistered Tire Hauling, more than 100 Waste/Used Tires	110	May 13, 2015	\$1,000
5375627-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	64	May 11, 2015	\$500
5375628-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	60	May 26, 2015	\$500
5375629-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	May 20, 2015	\$500
5375630-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	41	May 15, 2015	\$500
5375630-C	Unregistered Tire Hauling, 41-100 Waste/Used Tires	91	May 15, 2015	\$500
5375631-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	45	May 19, 2015	\$500

Comprehensive Trip Log	Violation	Passenger Tire Equivalent	Load Date	Penalty Assessed
5375633-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	94	May 08, 2015	\$500
5375635-C	Unregistered Tire Hauling, 41-100 Waste/Used Tires	65	May 20, 2015	\$500
5375648-A	Unregistered Tire Hauling, more than 100 Waste/Used Tires	105	April 24, 2015	\$1,000
5375648-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	70	April 30, 2015	\$500
5684601-B	Unregistered Tire Hauling, more than 100 Waste/Used Tires	104	June 19, 2015	\$1,000
5684602-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	60	July 01, 2015	\$500
5684602-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	49	July 02, 2015	\$500
5684603-A	Unregistered Tire Hauling, 21-40 Waste/Used Tires	34	June 26, 2015	\$500
5684603-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	60	June 29, 2015	\$500
5684604-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	70	June 24, 2015	\$500
5684605-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	48	June 23, 2015	\$500
5684606-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	70	June 29, 2015	\$500
5684608-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	46	July 6, 2015	\$500
5684609-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	July 9, 2015	\$500
5684609-B	Unregistered Tire Hauling, 21-40 Waste/Used Tires	21	July 10, 2015	\$500
5684613-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	75	July 10, 2015	\$1,000
5684614-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	54	July 13, 2015	\$500

19. Between February 13, 2015 and June 29, 2015, CALRECYCLE conducted an audit of RESPONDENT's manifest forms and determined that RESPONDENT maintained an approximate 94% error rate on his manifest forms. The table below provides the manifesting violations by RESPONDENT:

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Comprehensive Trip Log	Violation	Load date	Penalty Assessed
5375606-A	Load type missing, pickup and delivery not checked	June 5, 2015 (Receipt A)	\$1,500
5375606-B	Load type missing		
5375606-C	Load type missing		
5375608-A	Load type missing	June 11, 2015 (Receipt A)	\$1,500
5375608-B	Load type missing, pickup and delivery not checked		
5375608-C	Load type missing		
5375611-A	Load type missing	May 22, 2015 (Receipt A)	\$1,500
5375616-A	Load type missing	June 4, 2015 (Receipt A)	\$1,500
5375616-B	Load type missing		
5375616-C	Load type missing		
5375626-A	Load type missing, pickup and delivery not checked	June 19, 2015 (Receipt A)	\$1,500
5375626-B	Load type missing, pickup and delivery not checked		
5375626-C	Load type missing		
5375637-A	Load type missing	April 17, 2015 (Receipt A)	\$1,500
5375637-B	Load type missing		
5375637-C	Load type missing, both pickup and delivery checked		
5375638-A	Load type missing	April 22, 2015 (Receipt A)	\$1,500
5375638-B	Load type missing		
5375638-C	Load type missing		
5375644-A	Load type missing, pickup and delivery not checked	April 1, 2015 (Receipt A)	\$1,500
5375644-B	Load type missing		
5375644-C	Load type missing		
5375663-A	Load type missing, pickup and delivery not checked	March 19, 2015 (Receipt A)	\$1,500
5375663-B	Load type missing, pickup and delivery not checked		
5375663-C	Load type missing, pickup and delivery not checked		
5375664-A	Load type missing, pickup and delivery not checked	March 23, 2015 (Receipt A)	\$1,500
5375664-B	Load type missing, pickup and delivery not checked		
5375664-C	Load type missing, pickup and delivery not checked		
5375673-C	Load type and facility business name and address missing,	April 20, 2015 (Receipt C)	\$1,500
5375674-B	Load type missing, pickup and delivery not checked	March 12, 2015 (Receipt B)	\$1,500
5375674-C	Load type missing, pickup and delivery not checked		
5375681-A	Load type missing, pickup and delivery not checked	March 6, 2015 (Receipt A)	\$1,500
5375681-B	Load type missing, pickup and delivery not checked		
5375681-C	Load type missing, pickup and delivery not checked		

5375684-A 5375684-B 5375684-C	Load type missing Load type missing Load type missing	February 20, 2015 (Receipt A)	\$1,500
5375685-A 5375685-B 5375685-C	Load type missing Load type missing Load type missing	February 13, 2015 (Receipt A)	\$1,500
5375694-A 5375694-B	Missing facility TPID Missing facility telephone number	February 19, 2015 (Receipt A)	\$1,500
5684606-B	Load type missing	June 29, 2015 (Receipt B)	\$1,500

**CONCLUSIONS OF LAW**

20. RESPONDENT knowingly violated PRC section 42951(a) by hauling at least 39 loads of 10 or more waste or used tires between April 24, 2015, and July 14, 2015, without possessing a valid waste tire hauler registration.

21. RESPONDENT knowingly violated PRC section 42961.5(c)(2) by submitting at least 17 manifest forms with errors and or omissions to CALRECYCLE between February 13, 2015, and June 29, 2015.

**ORDER**

22. CALRECYCLE approves of, and adopts the terms of the Stipulation, and hereby orders RESPONDENT to comply with the following terms, in accordance with the Stipulation.

23. Pursuant to the terms and conditions of the Stipulation, and subject to the limitations hereunder, an administrative penalty is issued against RESPONDENT and in favor of CALRECYCLE in the sum of \$47,000.00 for the violations set forth in the Stipulation.

Payment of the penalty shall be satisfied in the following manner:

(a) RESPONDENT shall pay \$13,000.00 to CALRECYCLE in accordance with the following:

- i. RESPONDENT shall make installment payments to CALRECYCLE of \$450.00, each month with the first payment due on the 60<sup>th</sup> day after the

1 effective date of the Administrative Decision issued pursuant to the  
2 Stipulation, until the total amount of said payment totals \$13,000.00.

- 3 ii. If any payment by RESPONDENT is not mailed to CALRECYCLE by the due  
4 date, and if RESPONDENT fails to cure the missed payment(s) within twenty  
5 (20) days of said missed payment RESPONDENT shall be found in partial  
6 default of the Stipulation. The partial default amount due shall be calculated  
7 to include the amount owed from the missing payment(s) plus a 10% late  
8 penalty and interest. CALRECYCLE may seek recovery of this amount  
9 through RESPONDENT's Waste and Used Tire Hauler Registration Bond.
- 10 iii. All payments shall be made to CALRECYCLE, Attn: Richard Guess, at P. O.  
11 Box 4025, Sacramento, CA 95812-4025, or to such other person and/or  
12 place as CALRECYCLE or its agent may from time to time designate in  
13 writing.
- 14 iv. \$34,000.00 of this administrative penalty shall be stayed and held in  
15 abeyance for a period of three years. The stayed penalty shall be deemed  
16 terminated and shall not be paid by RESPONDENT to CALRECYCLE  
17 following the three-year period absent a default as described.

18 24. RESPONDENT shall, within 30 days of the issuance of the Administrative  
19 Decision enroll in the electronic data transfer (EDT) for submitting CTLs to CALRECYCLE.

20 25. RESPONDENT shall comply with all other laws related to waste tire storage and  
21 waste tire haulers set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title  
22 14 of the CCR. A violation of any law related to waste tire storage and waste tire haulers that  
23 is not described by a separate provision of the Stipulation shall constitute a partial default of  
24 the Stipulation.

25 26. If CALRECYCLE determines that RESPONDENT has hauled waste and or used  
26 tires without being in possession of a bond, CALRECYCLE shall immediately issue the partial  
27 penalty of suspending RESPONDENT's waste tire hauler registration for a period of 3 months.

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1 The Parties agree the following shall apply to a full default or partial default of the  
2 Stipulation:

3 27. **Default:** If RESPONDENT defaults under any of the terms of the Stipulation, it  
4 shall be deemed a partial default. CALRECYCLE shall send a Notice of Default to  
5 RESPONDENT; said Notice of Default shall state the paragraphs or provisions of the  
6 Stipulation of which RESPONDENT is in default and the abeyance amount owed.  
7 RESPONDENT shall have 30 days from the date of the issuance of the Notice of Default to  
8 provide evidence refuting CALRECYCLE's claim of default. After a review of the evidence  
9 provided by RESPONDENT, CALRECYCLE shall make a determination regarding the default  
10 and, if appropriate, shall issue a Supplemental Decision regarding any remaining penalties  
11 due.

12 ii. **Partial Default:** In the event of a partial default, CALRECYCLE shall state the  
13 amount of abeyance due, in accordance with the penalty amounts prescribed in  
14 Public Resources Code sections 42850, 42850.1, 42962 and 14 CCR sections  
15 18429 and 18464, when it sends its default notice. Upon review of counter  
16 arguments, CALRECYCLE shall either advise RESPONDENT that it has  
17 determined no default occurred, or shall issue an invoice ordering  
18 RESPONDENT to pay the specific penalty within 30 days. A partial default shall  
19 apply to any violations of waste tire storage or waste tire hauler laws not  
20 specifically stated as a full default above set forth in PRC section 42800 et seq.,  
21 PRC section 42950 et seq., and Title 14 of the CCR. Penalties for partial default  
22 shall be calculated as a "second offense." Failure to remit payment of a partial  
23 default shall constitute a full default.

24  
25 28. RESPONDENT shall abide by all of the terms and conditions set forth in the  
26 Stipulation.

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This Administrative Decision shall become effective as of the date signed below:

Dated: 11/4/16

  
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MARK DE BIE  
Deputy Director  
DEPARTMENT OF RESOURCES RECYCLING AND  
RECOVERY (CALRECYCLE)