



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

JUL 13 2012

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Karco Engineering, LLC
c/o Frank D. Richardson, President
9270 Holly Road
Adelanto, CA 92301

Re: Special Order Including Request for the Production of Documents

Dear Mr. Richardson:

The National Highway Traffic Safety Administration (“NHTSA”) administers the National Traffic and Motor Vehicle Safety Act, as amended and recodified, 49 U.S.C. § 30101 et seq.

ZAP filed reports pursuant to 49 C.F.R. Part 573, *Defect and Noncompliance Responsibility and Reports*, on the noncompliance of the MY 2008 ZAP Xebra with Federal Motor Vehicle Safety Standard (“FMVSS”) No. 122, *Motorcycle brake systems*. NHTSA has assigned recall numbers 09V-177/12V-230 and 09V-385 to these recalls.

Karco Engineering, LCC (“Karco”) performed testing for ZAP on a ZAP Xebra, which ZAP delivered to Karco on or about May 16, 2012.

NHTSA is sending you this Special Order Including Request for the Production of Documents (“Special Order”) because it is seeking information relevant to these recalls. Specifically, NHTSA is seeking information pertaining to Karco’s testing of the ZAP Xebra, and any other work Karco may have performed for ZAP related to the ZAP Xebra. We note that this Special Order is directed to Karco due in part to the unresponsiveness of ZAP in providing information directly to NHTSA, and is not the result of any deficiency by Karco.

Your response must be received by **July 31, 2012**.

This response must be given under oath. 49 U.S.C. § 30166(g)(1)(A). Failure to answer or answering untruthfully may subject you to civil penalties under 49 U.S.C. § 30165.

If you have any questions about the Special Order, please contact Ms. Kerry Kolodziej at (202) 366-5902.

Sincerely yours,

A handwritten signature in black ink, appearing to read "O. Kevin Vincent". The signature is written in a cursive style with a large, prominent initial "O".

O. Kevin Vincent
Chief Counsel

Enclosure

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

1200 New Jersey Avenue, SE
West Building, W41-326
Washington, DC 20590

In re:)
)
MY 2008 ZAP Xebra)
NHTSA Recall)
Nos. 09V-177/12V-230 and 09V-385)

**SPECIAL ORDER
INCLUDING
REQUEST FOR THE PRODUCTION OF DOCUMENTS**

To:

Karco Engineering, LLC
c/o Frank D. Richardson, President
9270 Holly Road
Adelanto, CA 92301

This Special Order Including Request for the Production of Documents (“Special Order”) from the National Highway Traffic Safety Administration (“NHTSA”) is issued pursuant to 49 U.S.C. § 30166(g)(1)(A) and 49 C.F.R. Part 510.7 and 510.8.

Karco Engineering, LCC (“Karco”) performed testing for ZAP on a ZAP Xebra, which ZAP delivered to Karco on or about May 16, 2012.

ZAP filed reports pursuant to 49 C.F.R. Part 573, *Defect and Noncompliance Responsibility and Reports*, on the noncompliance of the MY 2008 ZAP Xebra with Federal Motor Vehicle Safety Standard (“FMVSS”) No. 122, *Motorcycle brake systems*. NHTSA has assigned recall numbers 09V-177/12V-230 and 09V-385 to these recalls.

NHTSA is sending you this Special Order because it is seeking information relevant to these recalls. Specifically, NHTSA is seeking information pertaining to Karco’s testing of the ZAP Xebra, and any other work Karco may have performed for ZAP related to the ZAP Xebra.

Your response to this Special Order must be provided by **July 31, 2012**. Your response must be signed under oath.

Definitions and Instructions for this Special Order are contained in the attached Appendix.

Respond to the following questions and request:

Interrogatories:

1. Describe in detail all testing performed by Karco on a ZAP Xebra, including but not limited to the date the vehicle(s) was tested, the tests performed, the results of the testing, and whether (and, if so, how) the vehicle was modified and/or adjusted in any way during the course of the testing.
2. Has Karco's testing of the ZAP Xebra concluded? If so, when?
3. If Karco's testing of the ZAP Xebra has not concluded, describe in detail the additional testing Karco will perform on the vehicle, and the anticipated schedule for such testing. When do you expect it to conclude?
4. Has Karco performed or is Karco performing any work for ZAP related to the ZAP Xebra other than testing it to the FMVSS No. 122 braking distance requirements? If yes, describe in detail that work, including whether it has concluded or is ongoing and the date when it concluded or is expected to conclude.

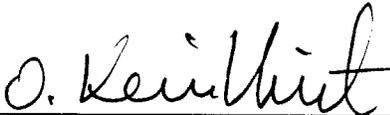
Request for the Production of Documents:

1. Provide a copy of all documents (including all reports, data, and emails) relating to any testing or other work performed by Karco related to the ZAP Xebra.
2. Provide a copy of all documents (including emails) reflecting or relating to any communications between ZAP and Karco (including any officers and/or employees of either company) regarding the ZAP Xebra.

Failure to respond promptly and fully to this Special Order could subject you to civil penalties of \$6,000.00 per day (up to a maximum of \$17,350,000) pursuant to 49 U.S.C. § 30165 and 49 C.F.R. § 578.6(a)(3) or lead to an action for enforcement of the Special Order. Other remedies and sanctions are available as well.

If you have any questions concerning this matter, please call Ms. Kerry Kolodziej at (202) 366-5902. Please note that this Special Order may be modified, if at all, only in writing.

Dated: July 13, 2012.



O. Kevin Vincent
Chief Counsel

APPENDIX

I. Definitions

To the extent used in this Special Order, the following definitions apply:

(A) Business Entity Names

- (1) **“Karco”** means Karco Engineering, LLC, and any United States-based subsidiaries and affiliates (collectively referred to as “Karco”), including all of its officers, employees, and agents.
- (2) **“ZAP”** means ZAP d/b/a ZAP Jonway, and any United States-based subsidiaries and affiliates (collectively referred to as “ZAP”), including all of its officers, employees, and agents.

Terminology

- (3) **“Affiliates”** means a corporation that is related to another corporation (such as a subsidiary, parent, or sibling corporation) by shareholdings or other means of control.
 - (4) **“Agent”** means an individual, such as a representative, who is authorized to act for or in place of another.
 - (5) **“Employee”** means a person who works in the service of another person (the employer) under an express or implied contract of hire, under which the employer has the right to control the details of work performance.
 - (6) **“Officer”** means a person who holds an office of trust, authority, or command, such as a person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a CEO, president, secretary, or treasurer.
- (B) **“Document(s)”** is used in the broadest sense of the word under Rule 34 of the Federal Rules of Civil Procedure, and includes all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, electronic communications (existing in hard copy and/or in electronic storage), invoices, contracts, agreements, manuals, publications, photographs of all types, and all mechanical, magnetic, and electronic records or recordings of any kind. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by the manufacturer or not. If a document is not in the English language, provide both the original document and an English translation of the document.
- (C) **“You”** or **“your”** refers to Karco, as defined above.

II. Instructions

In order for NHTSA to evaluate this matter, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the interrogatory and production requests above.

Your response to the Special Order shall be sent to Office of the Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590.

Please repeat the applicable request verbatim above your response. After your response to each request, identify the source of the information and indicate the last date the information was gathered.

When documents are produced and the documents would not, standing alone, be self-explanatory, the production of documents shall be supplemented and accompanied by explanation. Please also be reminded that where a document responsive to a request is not in the English language, both the original document and an English translation of the document must be produced.

You are required to respond to every request listed in this Special Order. If you cannot respond to any specific request or subpart(s) thereof, please state the reason why you are unable to do so. If you are unable to respond because you do not have all or any of the precise information needed to respond, provide an estimate. If, on the basis of attorney-client, attorney work product, or other privilege, you do not submit one or more requested documents or items of information in response to this Special Order, you must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, name and position of the person(s) from, and the person(s) to whom it was sent, and the name and position of any other recipient (to include all carbon copies or blind carbon copies), the nature of that information or material, and the basis for the claim of privilege and why that privilege applies.

The response to this Special Order, including the document requests, must be submitted in duplicate, together with a copy of any confidentiality request, to this office by July 31, 2012.

If you claim that any of the information or documents provided in response to this Special Order constitutes confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or is protected from disclosure pursuant to 18 U.S.C. § 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 C.F.R. Part 512, to the Office of Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590. You are required to submit two copies of the documents containing allegedly

confidential information and one copy of the documents from which information claimed to be confidential has been deleted. Failure to adhere to the requirements of 49 C.F.R. Part 512 will result in a rejection of your request for confidential treatment.

- A. If any information is submitted electronically, the information should be submitted on a CD-ROM that is labeled with the subject matter and the date of its submission to NHTSA. Each file should be named and labeled in a manner that readily identifies the request to which the information contained therein is responsive. If a particular file is not provided in a common format (e.g. Word or PDF) and requires the use of special software that is not readily available, you must provide a copy of that software with its submission. If you seek confidential treatment on the basis of Exemption 4 of the Freedom of Information Act for any of the materials you submit, it must follow the procedures set out in 49 C.F.R. Part 512.
- B. The singular includes the plural; the plural includes the singular. The masculine gender includes the feminine and neuter genders; and the neuter gender includes the masculine and feminine genders. "And" as well as "or" shall be construed either disjunctively or conjunctively, to bring within the scope of this Special Order all responses that might otherwise be construed to be outside its scope. "Each" shall be construed to include "every" and "every" shall be construed to include "each." "Any" shall be construed to include "all" and "all" shall be construed to include "any." The use of a verb in any tense shall be construed as the use of the verb in a past or present tense, whenever necessary to bring within the scope of the document requests all responses which might otherwise be construed to be outside its scope.
- C. Karco's response to this Special Order must be under oath, i.e., accompanied by an affidavit, signed by a responsible officer of Karco, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of Karco to be searched diligently for information and documents responsive to this Special Order and produced them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this Special Order.