

## KIT ENGER'S TESTIMONY FOR NOVEMBER 19<sup>TH</sup> CARB BOARD HEARING

Chairwoman and Board Members –

So that we together can address systemic enforcement problems, we need to first appreciate how our small California businesses were (and continue to be) treated by CARB enforcement staff.

As the leader of the California Sand Car Manufacturers, I proactively approached CARB in 2006 as soon as I found out that brand new emission standards were in the pipeline for our recreational vehicles.

Our industry made substantial investments and worked closely with the certification staff to make sure our vehicles were certified. Despite our efforts to cooperate, CARB enforcement slapped our industry with a \$600,000 penalty – without any explanation of how the penalty was calculated, or any acknowledgement of our efforts to comply.

Our industry had no idea that CARB was relying on illegal “underground regulations” that had not been approved by the Office of Administrative Law (OAL). Additional information on our OAL petition and on this illegal “underground regulation” is posted on [CERTreform.org](http://CERTreform.org).

Our small businesses in the sand car industry have been devastated by CARB's \$600,000 penalty. It has contributed to 5 of our 38 members going out of business and one of them a suicide.

During the settlement negotiations a CARB enforcement officer stated to me twice: “If you guys don't get on with this settlement, it doesn't matter to us if you go out of business, change your name, move to another state, or die, we will find you and attach your assets.” CARB didn't care about addressing air quality issues or my offer to recall the vehicles and update them; “they just wanted the money.”

Our members have been required to send the substantial penalty/settlement checks to Kerry Albert. He was the lead CARB investigator in our enforcement case. Wouldn't it be standard accounting to simply send such checks to a CARB fund or escrow account?

We agree heartily with Jim Ryden's recent commitment to informally investigate the use of collected penalty funds. However, Mr. Ryden has offered to hire a retired police officer to conduct the investigation and our group (and we expect the public) looks at this as a potential for some cover-up or whitewash.

This Board must ensure that the heavy handed and abusive tactics imposed on our struggling industry are not similarly inflicted on other innocent small businesses.

We are, therefore, respectfully requesting (in my letter in our package) for CARB to rescind the settlement it fraudulently obtained and to return to our members, the ill-gotten \$600,000 penalty. Our requested relief is the only way that CARB can make amends for its illegal actions and to protect the institution from further damaging its credibility and integrity.

Kit Enger  
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