

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

RECEIVED AND FILED CIRCUIT COURT 3:13 JAN 25 2019 EDWARD J. JEWETT, CLERK BY <i>[Signature]</i> D.C.
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COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL,

Plaintiff,

v.

ROBERT BOSCH GMBH,
AND ROBERT BOSCH LLC,

Defendants.

CIVIL ACTION NO. CL19-467-6

COMPLAINT

The Plaintiff, Commonwealth of Virginia, by Mark R. Herring, Attorney General of Virginia, brings this action complaining of Robert Bosch GmbH and Robert Bosch LLC and states as follows:

I. INTRODUCTION

In the fall of 2015, the Volkswagen diesel scandal erupted, leading to criminal charges and Volkswagen's admissions that: it knew that more than 500,000 diesel-powered passenger vehicles it marketed and sold or leased in the United States did not meet U.S. emission standards; it cheated the U.S. emissions testing process by using illegal software strategies that made it appear as if the vehicles met U.S. emission standards when they did not; and it attempted to conceal and concealed these facts from U.S. regulators and customers.

In 2016, in the wake of the Volkswagen scandal, state and federal regulators found that Volkswagen was not alone. Another diesel car manufacturer, Fiat Chrysler, *also* was using undisclosed and illegal software strategies to cheat on U.S. emissions tests in more than 100,000

light-duty diesel vehicles it marketed and sold or leased in the United States.

In both cases, the relevant software was provided by Bosch, the global engineering firm known to many as the maker of household appliances and, more relevant here, a major supplier to the automotive industry around the world. Bosch enabled this cheating by programming the emission control software it sold Volkswagen and Fiat Chrysler in circumstances where Bosch knew or should have known that its customers would use that software as part of the illegal strategies these automakers implemented to market and sell their vehicles in the U.S. market.

Laboratory and on-road testing confirm these illegal software strategies significantly reduced the effectiveness of these vehicles' emission controls during normal operation and use, causing them to emit multiples of the permitted levels of nitrogen oxides ("NO_x") into the environment. NO_x is a pollutant that causes respiratory illness and premature death and that contributes to the formation of smog and particulate matter pollution.

By this action, the Commonwealth of Virginia seeks to hold Bosch accountable for its unfair and deceptive conduct.

II. PARTIES

1. Plaintiff, Commonwealth of Virginia, by Mark R. Herring, Attorney General of Virginia, is charged, *inter alia*, with the enforcement of the Virginia Consumer Protection Act ("VCPA"), Virginia Code §§ 59.1-196 through 59.1-207.
2. The Attorney General is the chief law enforcement officer of the Commonwealth of Virginia and is authorized to bring this action pursuant to § 59.1-203 of the VCPA.
3. Robert Bosch GmbH ("Bosch GmbH") is a German multinational engineering and electronics company headquartered in Gerlingen, Germany. Bosch GmbH is the parent company of Robert Bosch LLC.

4. Robert Bosch LLC (“Bosch LLC”) is a Delaware limited liability company with its principal place of business located at 38000 Hills Tech Drive, Farmington Hills, Michigan 48331. Bosch LLC is a subsidiary of Bosch GmbH, which wholly owns and controls Bosch LLC. Bosch GmbH and Bosch LLC (collectively, “Bosch” or the “Bosch Defendants”) operate under the umbrella of the Bosch Group, which encompasses some 340 subsidiaries and companies. The Bosch Group is one of the leading automotive suppliers globally.

5. At all times material to this Complaint, each Bosch Defendant was, and still is, the agent of the others for purposes of the matters alleged herein, and each has acted, and is acting, for the common goals and profit of them all. All acts and knowledge ascribed to any one Defendant are properly imputed to the others.

III. JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this action, personal jurisdiction over the Defendants, and authority to grant the relief requested pursuant to Virginia Code §§ 8.01-620, 17.1-513, 59.1-203, 59.1-205, and 59.1-206.

7. At all relevant times, Defendants have purposefully availed themselves of this forum. Among other things, the Defendants designed, programmed, and delivered the electronic diesel control units, including emission control software, for sale in the U.S. market and inclusion in all of the Volkswagen and Fiat Chrysler diesel passenger vehicles that are the subject of this Complaint. Defendants also designed and calibrated the on-board diagnostics (“OBD”) systems in the Fiat vehicles, and prepared documents for submission by Fiat to regulators for certification of the Fiat vehicles’ OBD systems. Defendants did so under the supervision of their customers, when Defendants knew or should have known that these vehicles, along with their control units, including with the illegal software strategies described in this Complaint, would be marketed,

distributed, warranted, sold, and leased throughout all 50 states, including in the Commonwealth of Virginia.

8. Accordingly, the exercise of jurisdiction over all Defendants is consistent with due process.

9. Venue is preferred in this Court pursuant to Virginia Code § 8.01-261(15)(c) because some or all of the acts to be enjoined are, or were, being done in the City of Richmond. Venue is permissible in this Court pursuant to Virginia Code § 8.01-262(3) because the Defendants regularly conduct substantial business activity in the City of Richmond.

10. Prior to the commencement of this action, the Plaintiff gave the Defendants (a) written notice, through communications by a multistate group of attorneys general, that these proceedings were contemplated, and (b) a reasonable opportunity to demonstrate that no violations of the VCPA had occurred, or, in the alternative, the opportunity to execute an appropriate Assurance of Voluntary Compliance, pursuant to § 59.1-203(B). The Defendants thereafter failed to establish that no violations of the VCPA had occurred, but agreed to execute an acceptable Civil Consent Order and Judgment in lieu of an Assurance of Voluntary Compliance.

VI. BACKGROUND AND FACTUAL ALLEGATIONS

11. Unless otherwise stated, the allegations set forth in this Complaint are based upon information obtained from the documents produced by Bosch, the testimony of Bosch's current and former employees, publicly available press reports, and information and documents obtained from other sources through the Attorney General's independent investigatory efforts.

A. The Volkswagen and Fiat Entities

12. This Complaint centers around conduct that Bosch carried out with and for several of its

automotive customers over a number of years, namely:

- a. members of the Volkswagen Group (together, “VW”), led by Volkswagen AG, including Audi AG (“Audi”), Volkswagen Group of America, Inc., Dr. Ing. h.c. F. Porsche AG d/b/a Porsche AG, and Porsche Cars North America, Inc.; and
- b. Fiat Automobiles N.V. (“Fiat N.V.”) and a group of its subsidiaries and affiliates (together, “FCA”), including FCA US LLC, VM Motori S.p.A. (“VM Italy”); VM North America (“VM America” or, together with VM Italy, “VM”). VM designed, manufactured, calibrated, and delivered the engine system for inclusion in the FCA Diesel Vehicles, under the supervision of FCA.

13. Specifically, this Complaint focuses on Bosch’s development and programming of Bosch electronic diesel control (“EDC”) units, known as the EDC17, for installation in more than 500,000 2.0- and 3.0-liter “Clean Diesel”-branded VW vehicles (“VW Diesel Vehicles”) and more than 100,000 3.0-liter “EcoDiesel”-branded FCA vehicles (“FCA Diesel Vehicles”) marketed and sold or leased in the United States. A list of the VW Diesel Vehicles and FCA Diesel Vehicles (collectively, the “Diesel Vehicles”) is attached hereto as Exhibit 1.

14. Bosch’s EDC17 is a computer that controls emissions by periodically reading sensor values, evaluating control functions, and controlling actuators based on control signals. Based on sensor inputs, the EDC17 controls and influences the fuel combustion process including, in particular, fuel injection timing, which affects engine power, fuel consumption, and the composition of the exhaust gas or emissions.

15. Bosch’s EDC17 consists of base emission control software, which Bosch programs to meet each client manufacturer’s needs, in close coordination and consultation with the customer. Programming is the task of creating a source code that instructs a computer system, like the

Bosch EDC17, to behave according to the programmed logic.

16. For its customers VW and FCA, Bosch programmed the EDC17 software to include software functionality that Bosch knew or should have known would be calibrated¹ to optimize the emission controls while the vehicles were undergoing standard U.S. emissions testing cycles on a dynamometer (“on-cycle”) and substantially reduce emission controls when the vehicles were being driven on the road under normal, real-world conditions (“off-cycle”) (known as “defeat devices” in the industry), resulting in NO_x emissions greatly exceeding U.S. standards.

B. The U.S. Mobile Source Air Pollution Regulatory Framework Limits NO_x Emissions

17. NO_x is a pollutant linked with serious health and environmental dangers. NO_x combines in the atmosphere with volatile organic compounds to form ozone, a major component of urban smog that harms the public health and damages the environment. Ozone contributes to many human respiratory health problems, including chest pains, shortness of breath, coughing, nausea, throat irritation, and increased susceptibility to respiratory infections and illnesses, such as asthma, and disproportionately affects vulnerable members of society, particularly children and the elderly.

18. NO_x emissions also cause eutrophication of and excess nutrient loading in coastal and other waters, reduce the diversity of fish and other life in these waters and, along with sulfur dioxide found in the atmosphere from other sources, contribute to the creation of fine nitrate and sulfate particles. Like ozone, fine particulates affect Virginia residents by causing human respiratory distress, cardiovascular disease, and even premature mortality. Fine nitrate and sulfate particles are also toxic to aquatic life and vegetation.

¹ Calibration (or configuration) is the task of adjusting pre-existing values (commonly referred to as “labels” by Bosch and as “variables” by others in the computer sciences industry) to adjust the behavior of the programmed logic within the limits established by the program.

19. Because of the serious health and environmental impacts of NO_x emissions, emission standards impose not-to-exceed limits. Vehicle manufacturers must certify to the U.S. Environmental Protection Agency (“EPA”) that their motor vehicles comply with those standards to obtain EPA-issued Certificates of Conformity (“COCs”). The same standards also mandate certain durability requirements for the engine and its components.

20. The federal Clean Air Act permits California to obtain a waiver from the federal government to adopt and enforce its own emission standards for motor vehicles, which must meet or exceed federal standards. Other states may adopt California’s standards. Therefore, in order to sell vehicles in all fifty states, manufacturers must also certify to the California Air Resources Board (“CARB”) that their vehicles comply with CARB’s NO_x standards to obtain CARB-issued Executive Orders (“EOs”).

21. Of relevance to the Diesel Vehicles here, EPA’s Tier 2, Bin 5 emission standard and California’s LEV II emission standard – the standards applicable to the vast majority of the Diesel Vehicles – impose a NO_x emission limit of 0.05 grams per mile (“g/mi”) for up to 50,000 miles and 0.07 g/mi from 50,000 to 120,000 miles. The Tier 2/LEV III emission standard imposes a combined non-methane organic gas and NO_x limit of 0.125 g/mi for up to 150,000 miles. *See* Ex. 1. The amount of permissible NO_x emissions increases marginally as the vehicles accumulate more miles and their emission control systems age.

22. The EPA also requires vehicles to be equipped with OBD systems that monitor emission control systems for the life of the vehicle, and that are able to detect malfunctions in those systems and notify the driver when emissions exceed certain designated levels.

23. Although diesel engines generally are more fuel-efficient than gasoline engines, they also emit relatively high amounts of NO_x, a feature that must be controlled to meet emission

standards. Controlling NO_x emissions in diesel vehicles, however, involves various trade-offs: emission control technology that reduces NO_x emissions can adversely impact engine durability, maintenance, performance, and efficiency. Diesel vehicle manufacturers must therefore balance the goal of implementing effective NO_x reduction controls and strategies against engineering and marketing objectives.

C. Federal Law Requires Express Disclosure of All Emission Control Devices or Strategies and Prohibits Ones That Operate to Beat Formal U.S. Test Cycles

24. Federal emission regulations require vehicle manufacturers to make extensive written disclosures regarding the existence, impact of, and justification for any devices, including auxiliary emission control devices, which affect the operation of the emission control system.

25. An auxiliary emission control device (“AECD”) is any element of design that senses temperature, vehicle speed, engine RPM, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system. An AECD that operates to thwart emission standards by reducing the effectiveness of an automobile’s emission control system in everyday driving conditions is known in the industry as a “cycle-beater,” and in U.S. legal terms as a “defeat device.”

26. The EPA’s certification requirements and test procedures require, among other things, that vehicle manufacturers disclose in their certification applications all AECDs used in their vehicles.

27. Undisclosed AECDs and all defeat devices are expressly prohibited under federal law. Vehicles equipped with undisclosed AECDs or any defeat devices may not be certified for sale in the United States.

D. Bosch Assisted VW and FCA in Implementing and Concealing the Illegal Software Strategies They Used to Beat Formal U.S. Test Cycles

28. Both VW and FCA sought to leverage the diesel expertise they developed in the European market to compete and profit in the U.S. diesel market. But U.S. limits on NO_x emissions are more stringent than European limits.

29. Rather than invest the time, resources and money necessary to develop emission controls that would satisfy U.S. emission limits for NO_x, VW and FCA paid Bosch to program the EDC17s to include functionalities that VW and FCA used as undisclosed AECDs and defeat device software to optimize emission controls on-cycle and reduce them off-cycle. Using these strategies enabled VW and FCA to pass formal U.S. emissions tests, but caused the Diesel Vehicles to emit significantly higher-than-permitted amounts of NO_x off-cycle, under normal driving conditions.

30. The VW Diesel Vehicles contained defeat devices that worked by turning up emission controls when the vehicle recognized it was being tested on a dynamometer (VW's "dyno mode") and turning them down off-cycle.

31. These defeat devices, which operated to reduce NO_x emissions to acceptable levels during dyno mode, led to off-cycle, normal mode NO_x emissions greatly in excess of the legal limit.

32. VW's decision to implement these defeat devices was the result of a willful and systematic scheme of cheating, which extended over nearly a decade beginning in or about 2006 and which was an open secret at VW.

33. At VW's instruction, Bosch programmed the software for VW, and expanded and refined its functionality over the years.

34. At all relevant times, Bosch understood that the software it provided to VW would likely

be employed for illegal uses but adopted the position that as long as its client was responsible for the ultimate application or calibration, Bosch could not be held legally responsible.

35. Meanwhile, FCA partnered with Bosch to supply critical components, software, and services for the engines and emission control systems of the FCA Diesel Vehicles, including the EDC17 and its software, parts of the emission control system, OBD calibration, and the preparation of OBD documentation for submission by FCA to EPA and CARB for certification, among others.

36. As with VW, during development of the FCA Diesel Vehicles beginning in or around 2011, it became clear that complying with the U.S. emission requirements would require tradeoffs that would negatively affect the certifiability and marketability of the FCA Vehicles.

37. Rather than address these issues legally, FCA paid Bosch to program multiple functions into the Bosch EDC17 that FCA used to optimize emission controls on-cycle but decrease their usage off-cycle.

38. As deployed, these AECDs, acting alone or in combination, operated as defeat devices, and led to off-cycle, highway NO_x emissions greatly in excess of the EPA's Tier 2, Bin 5 standard.

39. At all relevant times, Bosch understood that FCA intended to use these AECDs to optimize the FCA Vehicles' performance during formal testing and further that disclosure to regulators of these AECDs would raise serious concerns about cheating and pose a serious threat to certification.

40. Certain Bosch personnel raised concerns to colleagues and managers, as well as to FCA and VM personnel, that multiple above-referenced functions in the FCA Diesel Vehicles were AECDs requiring disclosure and/or illegal defeat devices. Notwithstanding these concerns,

Bosch continued to supply FCA with software that Bosch knew or should have known would be used to implement these illegal and undisclosed software strategies. Bosch did so with the understanding that FCA would not disclose these strategies.

41. Notwithstanding the presence of these defeat devices, VW sought and obtained certification of the VW Diesel Vehicles under the EPA's Tier 2, Bin 5 emission standard and California's LEV II and or LEV III emission standards by submitting certifications to those agencies; and FCA sought and obtained certification for the FCA Diesel Vehicles under the EPA's Tier 2, Bin 5 emission standard and California's LEV II emission standard by submitting certification applications, including OBD documentation prepared by Bosch, to those agencies.

42. Further, to obtain COCs and EOs, VW and FCA warranted that the Diesel Vehicles were designed, built, and equipped to meet the EPA's and CARB's emission standards.

43. Despite being aware that the defeat devices in the Diesel Vehicles were likely illegal in the United States, Bosch never alerted any regulatory authorities to their existence.

E. Bosch Participated in the Deceptive Marketing of the Diesel Vehicles

44. Bosch understood that in order to sell and lease the Diesel Vehicles in the United States, as well as in Virginia, VW and FCA would have to:

- a. market, represent and warrant to consumers that they were compliant with applicable emission standards; and
- b. omit the fact that they were cheating on emission tests through the use of the defeat devices.

45. At all relevant times, Bosch knew or should have known that VW and FCA were using the hidden software functionality they had programmed into their VW and FCA EDC17s to cheat on emissions tests, and that by placing these vehicles on the market VW and FCA necessarily

would misrepresent to consumers that the vehicles were compliant with applicable emission standards and omit the fact that they were cheating.

46. Yet Bosch never came forward to warn consumers or regulators that VW and FCA were cheating. Nor did Bosch take any corrective action as VW and FCA deceptively emphasized the environmentally friendly, “clean,” “green” nature of diesel and targeted their marketing to environmentally-conscious consumers.

47. Had consumers known that Bosch’s EDC17 software used in VW and FCA Diesel Vehicles was not “clean” or “green”, they would not have purchased or leased the Diesel Vehicles.

i. VW’s Deceptive Marketing of the Diesel Vehicles

48. From 2009 through 2015, VW spent hundreds of millions of dollars to develop and place, including in Virginia, internet, television, and print ads advertising the fuel efficiency, performance, and environmental hygiene of the VW Diesel Vehicles, to rebrand diesel as a clean-running, fuel-efficient, fun alternative to their gas and hybrid competitors, and to associate the VW and Audi brands with progressive ideals, environmental consciousness, and innovation.

49. In addition to its misleading advertising campaigns, VW subjected buyers and lessees to additional misrepresentations at the point of sale through window stickers affixed to each of the VW Diesel Vehicles that reflected inaccurate average “smog ratings” because, in fact, the vehicles’ NO_x emissions – a major factor in smog ratings – actually exceeded applicable standards many times over.

50. VW disseminated the above advertisements, marketing materials and warranties to consumers throughout the United States, including in Virginia, even though they were categorically false in light of the installation of the defeat devices in the VW Diesel Vehicles.

51. Consumers purchased and leased the VW Diesel Vehicles based on VW's false and misleading representations that the vehicles would be environmentally friendly and clean, fuel-efficient, and compliant with all applicable emission standards and would provide superior performance, as well as based on VW's omission of the fact that the vehicles utilized illegal defeat devices. Consumers were willing to pay price premiums of thousands of dollars per car, depending on the model and trim packages, for VW Diesel Vehicles as opposed to gasoline-fueled equivalents.

52. A significant portion of owners purchased or leased a VW Diesel Vehicle because of VW's "clean diesel" and environmentally friendly promotions. Many, if not most, would not have purchased or leased the vehicles had VW accurately disclosed that the VW Diesel Vehicles failed to meet applicable emission standards or spewed NO_x into the air at levels well above regulatory limits.

ii. FCA's Deceptive Marketing of the Diesel Vehicles

53. To dispel diesel's negative associations in the U.S. market, FCA worked with a marketing firm to study consumer perceptions and create the name "EcoDiesel," with an accompanying badge incorporating the image of a leaf, to create an environmentally friendly image for the FCA Diesel Vehicles.

54. From 2013 through 2016, FCA spent tens of millions of dollars to develop and place, including in Virginia, internet, television, and print ads advertising the fuel efficiency, performance, and environmental hygiene of the FCA Diesel Vehicles, to rebrand diesel as a clean-running, fuel-efficient, fun alternative to their gas and hybrid competitors, and to associate the FCA brands with progressive ideals, environmental consciousness, and innovation.

55. In addition to its misleading advertising campaigns, FCA subjected buyers and lessees to

additional misrepresentations at the point of sale through window stickers affixed to each of the FCA Diesel Vehicles that reflected inaccurate average “smog ratings” because, in fact, the vehicles’ NO_x emissions – a major factor in smog ratings – actually exceeded applicable standards many times over.

56. Consumers purchased and leased FCA Diesel Vehicles based on FCA’s false and misleading representations that the vehicles would be environmentally friendly and clean, fuel-efficient, and compliant with all applicable emission standards and would provide superior performance, as well as on FCA’s omission of the fact that the vehicles contained illegal defeat devices. Consumers were willing to pay price premiums of thousands of dollars, depending on the model and trim packages, for the FCA Diesel Vehicles over the gas-fueled equivalents.

57. A significant portion of owners purchased or leased a FCA Diesel Vehicle because of its “clean diesel” and environmentally friendly promotions. Many, if not most, would not have purchased or leased the vehicles had FCA accurately disclosed that the FCA Diesel Vehicles failed to meet state and federal emission standards.

iii. Bosch Deceptively Promoted Its EDC17 as the Brain of VW’s and FCA’s “Clean Diesels”

58. Bosch engaged in deceptive conduct by misrepresenting and omitting to regulators and consumers about the legal compliance and environmental suitability of the Diesel Vehicles with respect to its ECUs and the Diesel Vehicles.

59. Bosch’s involvement in VW’s and FCA’s conduct went beyond the goal of satisfying its customers’ needs and ensuring continued access to their lucrative business. As it participated in VW’s and FCA’s conduct, one of Bosch’s chief objectives was to expand its “clean diesel” reputation and business into new markets, particularly in the United States.

60. Bosch paired its EDC17 with a proprietary diesel fuel injection system and claimed that

the resulting “Common Rail System” produced enhanced performance, complied with applicable emission limits, and could be customized for any vehicle.

61. Moreover, Bosch made significant investments in developing and promoting its Common Rail System as the centerpiece of its “clean diesel” technology, the heart of which was the EDC17. During the times it was developing software to cheat on emissions tests, Bosch used a variety of means – ranging from appearing at trade shows and conferences, to lobbying government officials, to issuing press releases, and authoring articles in the automotive press to making social media posts – to representing to regulators and other government officials, automakers, and even individual consumers, that the Common Rail System was the key to powerful yet quiet, fuel-efficient diesel passenger cars that also could be engineered to comply with increasingly stringent U.S. emission limits.

62. For example, Bosch and VW promoted the sale of the “clean diesel” VW Diesel Vehicles in the United States by developing a coordinated press strategy around the 2009 Jetta’s Green Car of the Year Award, in which VW reviewed, revised, and approved Bosch’s press releases, emphasizing the “emission reduction,” “low emissions” and “50-state compliant” “clean diesel” vehicles.

63. Similarly, in a January 24, 2013 press release, Bosch touted new platforms for its Common Rail System, namely the soon-to-be released FCA Diesel Vehicles. That release announced that FCA’s 2014 Jeep Grand Cherokee would be powered by a 3.0 liter “Eco Diesel” engine incorporating Bosch’s “Clean Diesel” technology. In the release, Bosch’s North America division asserted that the Jeep Grand Cherokee’s “clean diesel” emission system complied “with the most stringent emission regulations in the world” and that a growing number of vehicle manufacturers were adopting clean diesel technology, which provides fuel efficiency,

performance, and reduced emissions.

64. Later, at an event jointly hosted by Ram, Jeep and Bosch in Traverse City, Michigan, the presenters also made a number of statements regarding the 3.0-liter Eco Diesel's performance, including that "Bosch emissions control system helps ensure that virtually no particulates and minimal oxides of nitrogen (NO_x) exit the tailpipe" and that the Jeep Grand Cherokee or Ram 1500 diesel engine provided fuel economy that was "30% better than a comparable gasoline engine."

65. Bosch continued its promotion of the Common Rail System well into 2015 by, *inter alia*, posting videos on YouTube and creating a "Bosch Clean Diesel" Facebook page devoted to "clean diesel." Among the numerous Bosch articles and videos promoting "clean diesel" technology, it posted on the Facebook page direct links to many, if not all, of VW's now infamous "old wives' tales" video advertisements, designed to make VW's diesels look modern, hip, and, especially, clean and environmentally friendly. Bosch also posted a video featuring a Ram 1500 EcoDiesel brandishing "Clean Diesel Power" and "Bosch" artwork, noting that while the truck was rated at 29 mpg on the highway, "we can typically get upwards of 33 miles per gallon, easily." Bosch promoted the video using the hashtags "#cleandiesel" and "#goodcleanfun."

66. Bosch engaged in this multi-year campaign to expand and increase sales and leases of diesel vehicles containing its Common Rail System "clean diesel" technology in the United States, including the Diesel Vehicles sold by VW and FCA, even though it had assisted VW and FCA in enabling those vehicles to cheat and illegally evade emission standards, and even though it knew or should have known VW and FCA were engaged in deceptive marketing of those vehicles to consumers. It did so not only by failing to disclose to regulators, and the public,

VW's and FCA's cheating and deception, but also through its own promotion and marketing of the faulty "clean diesel" technology and the vehicles containing it.

CAUSES OF ACTION

COUNT I

VIRGINIA CONSUMER PROTECTION ACT (All Defendants)

67. The Commonwealth of Virginia re-alleges the facts above and incorporates them herein by reference.

68. The Defendants are now, and were at all relevant times mentioned herein, a "supplier[s]" of "goods" or "services" in connection with "consumer transaction[s]" as those terms are defined in § 59.1-198 of the VCPA.

69. Defendants engaged in deceptive acts or practices in the conduct of trade or commerce, in violation of Virginia Code § 59.1-200(A)(2), (5), (6), (8), and (14), by and without limitation:

- a. Falsely and/or deceptively advertising, promoting and representing the diesel emissions-related technology they were selling to VW and FCA as "green" "clean diesel" technology that would allow the Diesel Vehicles to meet emission standards in all fifty states and enable them to achieve performance and fuel-efficiency comparable or superior to that of other vehicles, while emitting fewer pollutants, despite knowing the Diesel Vehicles emitted NO_x well in excess of permissible limits in regular driving conditions;
- b. Concealing, omitting, and/or failing to disclose the existence of the defeat devices in the Diesel Vehicles;
- c. Failing to disclose, omitting, and/or concealing the undisclosed AECDs in the Diesel Vehicles;
- d. Causing a likelihood of confusion or misunderstanding as to the source, sponsorship, approval or certification of the Diesel Vehicles in regards to the following:
 - i. applicable emission standards;
 - ii. applicable environmental standards; and
 - iii. pollution and impact on the environment;
- e. Representing that the Diesel Vehicles had sponsorship, approval, characteristics, uses,

benefits, or qualities that they did not; and

- f. Representing that the Diesel Vehicles were of a particular standard or quality when they did not have the represented particular standards or qualities.

70. At all relevant times, Defendants also knew that VW and FCA were engaged in their own deceptive acts and practices, including by, *without limitation*:

- a. Misrepresenting, creating false pretenses, and/or falsely certifying and/or warranting the Diesel Vehicles' compliance with applicable emission standards, certification, and/or other regulatory standards on vehicle stickers and in advertisements appearing in the stream of Virginia commerce;
- b. Placing into commerce vehicles that failed to comply with applicable emission and/or certification standards;
- c. Failing to disclose, omitting, suppressing, and/or concealing from environmental regulators the existence of the defeat devices and their harmful environmental impact;
- d. Failing to disclose, omitting, suppressing, and/or concealing from consumers the existence of the defeat devices and their harmful environmental impact;
- e. Selling, leasing, and offering for sale or lease vehicles that were defective because, without limitation, the vehicles failed to conform to applicable emission standards;
- f. Falsely and/or deceptively advertising, promoting and warranting the Diesel Vehicles as "clean" and "green" despite the fact that, in regular driving, they emit NO_x at many multiples the allowable amounts; and
- g. Falsely and/or deceptively advertising, promoting and warranting the Diesel Vehicles by failing to disclose that certain performance measures could only be met when the defeat devices were operating.

71. Defendants' conduct has significantly harmed Virginia consumers, who did not receive the benefit of their bargain, whose vehicles have suffered a diminution in value and who unwittingly bought and drove cars that violated the law and contributed to environmental harm notwithstanding that consumers believed they had purchased or leased an environmentally-friendly car.

72. Defendants committed a separate and independent violation of the VCPA through each and every deception, false statement, misrepresentation, or omission of material information.

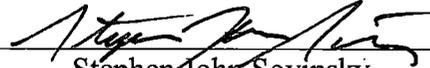
73. Each and every time Defendants modified a Diesel Vehicle to be driven in the Commonwealth of Virginia, Defendants committed a separate and independent violation of the VCPA through unconscionable trade practices.

74. Defendants have engaged in violations of the VCPA by making deceptive, false, or misleading statements and by omitting material information, with respect to the Diesel Vehicles, since 2009 with multiple violations occurring on each and every day during this period.

WHEREFORE, Plaintiff, Commonwealth of Virginia, prays for the following relief:

- A. Permanently enjoining Defendants from further violations of § 59.1-200 of the VCPA;
- B. Permanently enjoining Defendants from: advertising, promoting, marketing, concealing or assisting, facilitating or participating in any manufacturer's advertising, promotion, marketing or concealment in the Commonwealth of Virginia of any new motor vehicle equipped with a Defeat Device or Undisclosed AECD or any new motor vehicle not eligible for sale pursuant to applicable emission and environmental standards;
- C. Grant judgment against the Defendants and award to the Commonwealth civil penalties in the amount of \$2,500 per willful violation of the VCPA pursuant to Virginia Code § 59.1-206(A);
- D. Grant judgment against Defendants and award to the Commonwealth its costs, reasonable expenses incurred in investigating and preparing the case up to \$1,000 per violation of the VCPA and its attorneys' fees, pursuant to Virginia Code § 59.1-206(C); and
- E. Ordering such additional and further relief as the Court deems appropriate and just.

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL

By: 
Stephen John Sovinsky

Mark R. Herring
Attorney General

Cynthia E. Hudson
Chief Deputy Attorney General

Samuel T. Towell
Deputy Attorney General

Richard S. Schweiker, Jr.
Senior Assistant Attorney General and Chief

Mark S. Kubiak
Assistant Attorney General and Unit Manager

Stephen J. Sovinsky (VSB No. 85637)
Assistant Attorney General

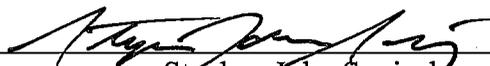
Consumer Protection Section
202 North Ninth Street
Richmond, Virginia 23219
Phone: (804) 823-6341
Fax: (804) 786-0122
Email: ssovinsky@oag.state.va.us

CERTIFICATE OF SERVICE

I, Stephen John Sovinsky, certify that on January 25, 2019, a true copy of the foregoing
Complaint was mailed via first class mail to:

Paul R. St. Lawrence, Esquire
Matthew D. Slater, Esquire
Cleary Gottlieb Steen & Hamilton LLP
2112 Pennsylvania Avenue, NW
Washington, DC 20037

David E. Brodsky, Esquire
Jennifer Kennedy Park, Esquire
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006



Stephen John Sovinsky

Bosch Complaint Exhibit 1

Model Year	Environmental Protection Agency ("EPA") Test Group	Vehicle Make and Model(s)	EGR/DPF	LEV II or LEV III
2009	9VWXV02.035N; 9VWXV02.0U5N	VW Jetta, VW Jetta Sportwagen	EGR	LEV II
2010	AVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3	EGR	LEV II
2011	BVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3	EGR	LEV II
2012	CVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3	EGR	LEV II
2013	DVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3	EGR	LEV II
2014	EVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen	EGR	LEV II
2012	CVWXV02.0U4S; DVWXV02.0U4S; EVWXV02.0U4S	VW Passat	SCR/EGR	LEV II
2013	CVWXV02.0U4S; DVWXV02.0U4S; EVWXV02.0U4S	VW Passat	SCR/EGR	LEV II
2014	CVWXV02.0U4S; DVWXV02.0U4S; EVWXV02.0U4S	VW Passat	SCR/EGR	LEV II
2015	FVGAV02.0VAL	VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportwagen, VW Jetta, VW Passat, Audi A3	SCR/EGR	LEV III
2009	9ADXT03.03LD	VW Touareg, Audi Q7	SCR/EGR	LEV II
2010	AADXT03.03LD	VW Touareg, Audi Q7	SCR/EGR	LEV II
2011	BADXT03.02UG BADXT03.03UG	VW Touareg Audi Q7	SCR/EGR SCR/EGR	LEV II LEV II
2012	CADXT03.02UG CADXT03.03UG	VW Touareg Audi Q7	SCR/EGR SCR/EGR	LEV II LEV II
2013	DADXT03.02UG DADXT03.03UG DPRXT03.0CDD	VW Touareg Audi Q7 Porsche Cayenne Diesel	SCR/EGR SCR/EGR SCR/EGR	LEV II LEV II LEV II
2014	EADXT03.02UG EADXT03.03UG EPRXT03.0CDD EADXJ03.04UG	VW Touareg Audi Q7 Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5	SCR/EGR SCR/EGR SCR/EGR SCR/EGR	LEV II LEV II LEV II LEV II
2015	FVGAT03.0NU2 FVGAT03.0NU3 FPRXT03.0CDD FVGAJ03.0NU4	VW Touareg Audi Q7 Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5	SCR/EGR SCR/EGR SCR/EGR SCR/EGR	LEV II LEV II LEV II LEV II
2016	GVGAT03.0NU2 GPRXT03.0CDD GVGAJ03.0NU4	VW Touareg Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5	SCR/EGR SCR/EGR SCR/EGR	LEV II LEV II LEV II
2014	ECRXT03.05PV ECRXT03.05PV	Dodge Ram 1500 Jeep Grand Cherokee	SCR/EGR SCR/EGR	LEV II LEV II
2015	ECRXT03.05PV ECRXT03.05PV	Dodge Ram 1500 Jeep Grand Cherokee	SCR/EGR SCR/EGR	LEV II LEV II
2016	GCRXT03.05PV GCRXT03.05PV	Dodge Ram 1500 Jeep Grand Cherokee	SCR/EGR SCR/EGR	LEV II LEV II

Exhibit A

Model Year	Environmental Protection Agency ("EPA") Test Group	Vehicle Make and Model(s)
2009	9VWXV02.035N; 9VWXV02.0U5N	VW Jetta, VW Jetta Sportwagen
2010	AVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2011	BVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2012	CVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2013	DVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2014	EVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen
2012	CVWXV02.0U4S; DVWXV02.0U4S; EVWXV02.0U4S	VW Passat
2013	CVWXV02.0U4S; DVWXV02.0U4S; EVWXV02.0U4S	VW Passat
2014	CVWXV02.0U4S; DVWXV02.0U4S; EVWXV02.0U4S	VW Passat
2015	FVGAV02.0VAL	VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportwagen, VW Jetta, VW Passat, Audi A3
2009	9ADX03.03LD	VW Touareg, Audi Q7
2010	AADX03.03LD	VW Touareg, Audi Q7
2011	BADX03.02UG BADX03.03UG	VW Touareg Audi Q7
2012	CADX03.02UG CADX03.03UG	VW Touareg Audi Q7
2013	DADX03.02UG DADX03.03UG DPRX03.0CDD	VW Touareg Audi Q7 Porsche Cayenne Diesel
2014	EADX03.02UG EADX03.03UG EPRX03.0CDD EADXJ03.04UG	VW Touareg Audi Q7 Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5
2015	FVGAT03.0NU2 FVGAT03.0NU3 FPRX03.0CDD FVGAJ03.0NU4	VW Touareg Audi Q7 Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5
2016	GVGAT03.0NU2 GPRX03.0CDD GVGAJ03.0NU4	VW Touareg Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5
2014	ECRX03.05PV	Dodge Ram 1500
2014	ECRX03.05PV	Jeep Grand Cherokee
2015	ECRX03.05PV	Dodge Ram 1500
2015	ECRX03.05PV	Jeep Grand Cherokee
2016	GCRX03.05PV	Dodge Ram 1500
2016	GCRX03.05PV	Jeep Grand Cherokee