

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

D-4 FCA US LLC,

Defendant.

No. 19-CR-20626

HONORABLE NANCY G.
EDMUNDS

VIOLATION:

18 U.S.C. § 371

SECOND SUPERSEDING INFORMATION

The United States Department of Justice, Criminal Division, Fraud Section, the United States Attorney's Office for the Eastern District of Michigan, and the United States Department of Justice, Environment and Natural Resources Division, Environmental Crimes Section, charge:

At all relevant times, unless otherwise noted:

GENERAL ALLEGATIONS

1. Stellantis N.V. ("Stellantis"), the successor in interest to Fiat Chrysler Automobiles N.V. ("FCA NV") by means of a merger that became effective in January 2021, was a motor vehicle manufacturer headquartered in Amsterdam, Netherlands.

2. FCA US LLC (“FCA US”), formerly Chrysler Group LLC, was a motor vehicle manufacturer based in Auburn Hills, Michigan, and a wholly owned subsidiary of Stellantis.

3. FCA Italy S.p.A. (“FCA Italy”), was a motor vehicle manufacturer based in Turin, Italy, and a wholly owned subsidiary of Stellantis or its predecessors.

4. VM Motori S.p.A. (“VM”) was a diesel engine manufacturing company based in Cento, Italy, with U.S. offices in Auburn Hills, Michigan. Beginning in 2010, Stellantis’ predecessors, including FCA NV, indirectly owned 50% of VM. Beginning in April 2014, VM was a wholly and indirectly owned subsidiary of FCA NV or its predecessors, and it remains a wholly and indirectly owned subsidiary of Stellantis.

5. The Clean Air Act and its implementing regulations (collectively, “the Clean Air Act”) were designed to protect human health and the environment by, among other things, reducing emissions of pollutants from new motor vehicles. The Clean Air Act required the United States Environmental Protection Agency (“EPA”) to promulgate standards for emissions of pollutants from new motor vehicles, including nitrogen oxides (“NO_x”).

6. In 1994, the United States established new federal emissions standards that would be implemented in separate steps, or Tiers. Tier II emissions standards, including for NO_x emissions, were significantly stricter than Tier I. For light-duty

vehicles, the regulations required manufacturers like FCA US to begin to phase in compliance with the new, stricter Tier II NO_x emissions standards in 2004, and required manufacturers like FCA US to fully comply with the stricter standards for model year 2007.

7. The Clean Air Act prohibited manufacturers of new motor vehicles from selling, offering for sale, introducing or delivering for introduction into commerce, or importing (or causing the foregoing with respect to) any new motor vehicle unless the vehicle or engine (a) complied with emissions standards, including NO_x emissions standards, and (b) was issued an EPA certificate of conformity (“COC”) as required by the Clean Air Act.

8. Under the Clean Air Act, manufacturers like FCA US were required to submit an application for a COC to the EPA for each model year, and for each test group of vehicles that it intended to sell in the United States. The application was required to be in writing, to be signed by an authorized representative of the manufacturer, and to include the results of testing done pursuant to the published federal test procedures that measure NO_x emissions. Manufacturers could not sell motor vehicles in the United States without a certificate of conformity from the EPA.

9. In addition, manufacturers like FCA US were required to include in the application descriptions of the engine, emissions control systems, and fuel system components, including a description and justification for each Auxiliary Emission

Control Device (“AECD”) installed in the vehicle. An AECD was defined by EPA pursuant to the implementing regulations as “any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.”

10. As part of the process for obtaining approval to sell new vehicles, manufacturers like FCA US often worked in parallel with the EPA and the California Air Resources Board (“CARB”). CARB issued its own certificates, called Executive Orders (“EOs”), for the sale of motor vehicles in the State of California. In order to obtain an EO from CARB and sell cars in the State of California, manufacturers like FCA US were required to satisfy the standards set and enforced by the State of California.

11. In addition to demonstrating compliance with federal emissions standards, manufacturers like FCA US were also required to demonstrate that their light-duty vehicles were equipped with an on-board diagnostic (“OBD”) system capable of monitoring emissions-related systems or components. Because CARB’s OBD standards were at least equal to the federal OBD standards that were enforced and set by the EPA, manufacturers like FCA US could demonstrate compliance with federal OBD standards by demonstrating compliance with CARB’s OBD standards. CARB reviewed applications from manufacturers like FCA US to determine

whether their OBD systems complied with California OBD standards, and CARB's conclusion would be included in the application manufacturers submitted to the EPA.

12. At least as early as 2010, FCA US started a program to develop a new 3.0-liter diesel engine for use in FCA US's Jeep Grand Cherokee and Ram 1500 vehicles that would be sold in North America, including in the United States.

13. Beginning in 2013, FCA US sold, offered for sale, introduced into commerce, delivered for introduction into commerce, and imported into the United States (collectively "sold in the United States") the following vehicles with the new 3.0-liter diesel engine (the "Subject Vehicles"):

- a. Model Years 2014-2016 Jeep Grand Cherokee; and
- b. Model Years 2014-2016 Ram 1500.

14. Between 2013 and continuing through 2016, FCA US prepared and submitted applications for COCs to the EPA and applications for Executive Orders to CARB (collectively the "Applications") in order to obtain authorization to sell the Subject Vehicles in the United States.

15. Emanuele Palma was a Senior Diesel Calibration Manager for FCA US based in Auburn Hills, Michigan. Palma led a team of engineers that developed and calibrated the diesel engines in the Subject Vehicles from in or about 2012 until at least in or about September 2017. From in or about 2012 until in or about March

2014, Palma worked on the Subject Vehicles as an employee of VM and agent of FCA US. In or about April 2014, Palma became an employee of FCA Italy and continued to work on the Subject Vehicles from Auburn Hills, Michigan, as an agent of FCA US. In or about January 2015, Palma joined FCA US on international assignment, during which time he was paid directly by FCA US, supervised FCA US employees, and received his performance reviews from an FCA US supervisor. In or about June 2016, Palma became a direct employee of FCA US. At the time of this Information, Palma remained employed at FCA US as a Senior Calibrations Engineer, although FCA US suspended him with pay in September 2019.

16. Sergio Pasini was a Cento Operations Lead for FCA Italy. Pasini was previously a head calibration engineer for VM, based in Cento, Italy, who directly supervised Palma and managed the development of controls and calibrations associated with the Subject Vehicles from in or about 2010 until at least in or about September 2017. From in or about 2010 until in or about March 2014, Pasini worked on the Subject Vehicles as an employee of VM and agent of FCA US. In or about April 2014, Pasini became an employee of FCA Italy and continued to work on the Subject Vehicles as an agent of FCA US until at least in or about September 2017. At the time of this Information, Pasini remained employed at FCA Italy as the Cento Operations Lead, although FCA Italy suspended him with pay in May 2021.

17. Gianluca Sabbioni was a Diesel Testing Manager for FCA Italy.

Sabbioni was previously a technical director for VM, based in Cento, Italy, who directly supervised Pasini and oversaw the development of the Subject Vehicles from in or about 2010 until at least in or about September 2017. Sabbioni reported directly to the CEO of VM and worked with executives at FCA US on the Subject Vehicles. From in or about 2010 until in or about March 2014, Sabbioni worked on the Subject Vehicles as an employee of VM and agent of FCA US. In or about April 2014, Sabbioni became an employee of FCA Italy and continued to work on the Subject Vehicles as an agent of FCA US until at least in or about September 2017. At the time of this Information, Sabbioni remained employed at FCA Italy as a Diesel Testing Manager, although FCA Italy suspended him with pay in May 2021.

COUNT 1
**(18 U.S.C. § 371 – Conspiracy to Defraud the United States
to Violate the Clean Air Act, and to Commit Wire Fraud)**

18. Paragraphs 1 through 17 of this Information are realleged and incorporated by reference as though fully set forth herein.

19. From at least in or about 2010 and continuing through at least in or about September 2017, in Oakland County, within the Eastern District of Michigan, and elsewhere, defendant FCA US LLC along with others, known and unknown, did willfully, knowingly, and deliberately combine, conspire, and confederate and did agree to:

- a. defraud the United States by impairing, impeding, obstructing,

and defeating a lawful function of the federal government, that is, the EPA's function of implementing and enforcing emissions standards for air pollutants for new motor vehicles under the Clean Air Act, by deceitful and dishonest means, in violation of 18 U.S.C. § 371;

- b. violate the Clean Air Act, by making, and causing to be made, false material statements, representations, and certifications in, and omitting and causing to be omitted material information from, notices, applications, records, reports, plans, and other documents required pursuant to the Clean Air Act to be filed and maintained, in violation of 42 U.S.C. § 7413(c)(2)(A); and
- c. commit wire fraud, that is, knowingly, willfully, and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, transmit and cause to be transmitted by means of wire, radio, and television communication, writings, signs, signals, pictures, and sounds in interstate and foreign commerce for the purpose of executing such scheme and artifice in violation of 18 U.S.C. § 1343.

Purpose of the Conspiracy

20. The purpose of the conspiracy was for FCA US, through Palma, Pasini, Sabbioni, and other current or former VM employees, acting within the scope of their employment as agents and employees of FCA US, and at least in part, for the benefit of FCA US, to unlawfully enrich itself by, among other things, (a) deceiving U.S. regulators in order to obtain the necessary COCs and EOs to sell the Subject Vehicles in the United States; (b) selling the Subject Vehicles in the United States knowing that those vehicles did not meet U.S. emissions standards; (c) deceiving FCA US's customers by making false and misleading representations about the Subject Vehicles; and (d) concealing these facts from U.S. regulators and U.S. customers.

Manner and Means of the Conspiracy

21. From in or about 2010 until at least in or about September 2017, FCA US, through Palma, Pasini, Sabbioni, and other current or former VM employees, acting within the scope of their employment as agents and employees of FCA US, and at least in part, for the benefit of FCA US, agreed to deceive U.S. regulators and U.S. customers about the design, calibration, and function of the emissions control systems used on the Subject Vehicles, the emissions of pollutants from the Subject Vehicles, and the fuel efficiency of the Subject Vehicles. During the design, marketing and/or sale of the Subject Vehicles in the United States, FCA US, through

Palma, Pasini, Sabbioni, and other current or former VM employees, acting within the scope of their employment as agents and employees of FCA US, and at least in part, for the benefit of FCA US: (a) purposely calibrated the Subject Vehicles using undisclosed cycle-beating software strategies; (b) made false and misleading representations to U.S. regulators to obtain regulatory approval to sell the Subject Vehicles in the United States; (c) made false and misleading representations to U.S. customers in advertisements and in window labels, including that the Subject Vehicles complied with U.S. emissions requirements, had best-in-class fuel efficiency as measured by EPA testing, and were equipped with “clean EcoDiesel engine[s]”; and (d) concealed these facts from the U.S. regulators and U.S. customers.

Overt Acts

22. In furtherance of the conspiracy and to achieve its objects and purpose, at least one of the co-conspirators committed and caused to be committed, in the Eastern District of Michigan, and elsewhere, at least one of the following overt acts, among others:

23. On or about January 13, 2013, FCA US posted an online article marketing the 2014 Jeep Grand Cherokee using materially false and misleading representations, including that the vehicle had a “new, clean, 3.0-liter EcoDiesel V6 engine that delivers best-in-class 30 miles per gallon and a driving range of more

than 730 miles.”

24. On or about December 23, 2014, Palma, Pasini, Sabbioni, and other current or former VM employees, acting within the scope of their employment as agents and employees of FCA US, caused FCA US to submit the final Model Year 2014 Common Application for the Subject Vehicles to the EPA that contained materially false and misleading representations.

25. On or about November 23, 2015, Palma, Pasini, Sabbioni, and other current or former VM employees, acting within the scope of their employment as agents and employees of FCA US, and at least in part for the benefit of FCA US, caused FCA US to submit an AECD list for the Model Year 2016 Common Application for the Subject Vehicles to the EPA that contained false and misleading representations.

26. On or about April 21, 2017, Palma, Pasini, Sabbioni, and other current or former VM employees, acting within the scope of their employment as agents and employees of FCA US, and at least in part for the benefit of FCA US, caused FCA US to submit a response to an EPA request for information about the Subject Vehicles that contained materially false and misleading representations.

27. In or about September 2017, FCA US sold the last of approximately 101,482 of the Subject Vehicles to U.S. consumers.

All in violation of 18 U.S.C. § 371.

FORFEITURE ALLEGATIONS
(18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)—Criminal Forfeiture)

1. The allegations contained in Count 1 of this Information are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture against FCA US LLC pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

2. Pursuant to Title 18, United States Code, Sections 981(a)(1)(C) together with Title 28, United States Code, Section 2461(c), upon being convicted of the crime charged in Count 1 of this Information, the convicted defendant shall forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds traceable to the commission of the offense.

3. Money Judgment: Property subject to forfeiture includes, but is not limited to, a forfeiture money judgment equal to \$203,572,892.00 in United States currency.

4. Substitute Property: The United States of America shall seek forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

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Dated: 6/2/2022

United States District Court Eastern District of Michigan	Criminal Case Cover Sheet	Case Number 19-CR-20626
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Companion Case Information	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned:
☐ Yes ☒ No	AUSA's Initials: <i>s/jkn</i>

Case Title: USA v. D-4 FCA US LLC

County where offense occurred : Oakland

Check One: ☒ **Felony** ☐ **Misdemeanor** ☐ **Petty**

☐ Indictment/ ☐ Information --- **no** prior complaint.
☐ Indictment/ ☐ Information --- based upon prior complaint [Case number: _____]
☐ Indictment/ ☒ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information

Superseding to Case No: 19-CR-20626 **Judge:** NANCY G. EDMUNDS

- ☐ Corrects errors; no additional charges or defendants.
☐ Involves, for plea purposes, different charges or adds counts.
☒ Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
FCA US LLC	18 U.S.C. § 371	N/A

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

June 2, 2022
Date

s/John K. Neal
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¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.