UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SCOTT DEKOCK,

Defendant.
_____/

No. 1:23-cr-48

HON. PAUL L. MALONEY
United States District Judge

SUPERSEDING FELONY INFORMATION

The United States Attorney charges:

INTRODUCTORY ALLEGATIONS

At all times relevant herein:

1. The purpose of the Clean Air Act ("CAA") is, among other things, "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." 42 U.S.C. § 7401(b)(1); *see* 42 U.S.C. § 7470 (setting forth the Congressional declaration of purpose). In enacting the CAA, Congress found that "the increasing use of motor vehicles[] has resulted in mounting dangers to the public health and welfare." 42 U.S.C. § 7401(a)(2).

2. The CAA regulates "mobile sources," which include motor vehicle engines and off-road vehicles and engines. Mobile sources must comply with the CAA emission standards. Pursuant to 42 U.S.C. §§ 7521–7554, and the regulations promulgated thereunder, the U.S. Environmental Protection Agency ("EPA") established standards limiting the emission of air pollutants from various classes of motor vehicle engines. Heavy-duty diesel engines ("HDDEs") are one such class and are subject to the emissions regulations found at 40 C.F.R. Part 86, Subpart A. 42 U.S.C. § 7521(a)(3).

3. To meet these emission standards, vehicle manufacturers design and install certain hardware devices as components of an emissions control system to manage and treat engine exhaust. This reduces the levels of pollutants such as nitrogen oxides, particulate matter, carbon monoxide, and non-methane hydrocarbons that are emitted into the air from tailpipe exhaust and keeps those emissions within regulatory limits. For diesel engines, such emissions control devices include diesel particulate filters ("DPF"), exhaust gas recirculation ("EGR") systems, diesel oxidation catalysts ("DOC"), and selective catalytic reduction ("SCR") systems. Together, these hardware emissions control devices make up a diesel vehicle's emissions control system and are critical to ensuring that the vehicle complies with the CAA's emissions standards.

4. Pursuant to 42 U.S.C. § 7521(m)(1), the EPA is authorized to create regulations requiring manufacturers to install on-board diagnostic ("OBD") systems on vehicles and engines to ensure that emissions control systems continue to operate properly. EPA has thus enacted regulations that require the installation of OBD systems on vehicles and engines. *See* 40 C.F.R. §§ 86.007-17, 86.010-18, and 86.1806-05. OBD systems must be "capable of monitoring all emission-related engine systems or components," including the EGR system, the DOC, the DPF, and the SCR system. 40 C.F.R. § 86.010-18(a).

5. Modern highway motor vehicles contain a network of control modules that control the powertrain system and components, which includes the emissions control system. The primary control module for powertrain and emissions is often referred to as the engine control module ("ECM") (sometimes referred to as the engine or electronic control unit "ECU"). The OBD is composed of software and sensors that monitor emissions-related engine systems and components for malfunctions that may increase emissions. Generally speaking, vehicle manufacturers integrate the OBD system into the calibration(s) stored on the ECM (i.e., the OBD

is a subsystem of the calibration(s) stored on the ECM). Collectively, all calibrations (including the OBD system), operating software, and firmware on the ECM may be referred to as "software." If an emissions-related malfunction or problem occurs, the OBD system causes a malfunction indicator light ("MIL") to be illuminated on the vehicle's dashboard to alert the driver and a diagnostic trouble code ("DTC") to be stored in the OBD's memory. These functions facilitate the detection and diagnosis of a malfunction in the emissions control system. Removal, disconnection, or malfunction of certain powertrain components, including emissions control hardware, may cause the control system to limit the top speed of some vehicles to as low as five miles per hour (an effect commonly referred to as "limp mode" or "power reduced mode"), providing an incentive for the vehicle's operator to seek repairs and to prevent damage to other components.

6. OBD systems are monitoring devices or methods required to be maintained or followed under the CAA to ensure that both the emissions-monitoring computer software and the hardware emissions control devices of heavy-duty vehicles are functioning properly. *See* 40 C.F.R. §§ 86.010-18(a) and 86.1806-5(a)(1).

7. Persons seeking to evade the CAA's pollution controls for heavy-duty diesel vehicles have developed methods of modifying or removing emissions control systems and rendering the OBDs inaccurate. These modifications may be undertaken to avoid repair and maintenance costs associated with emissions controls and to improve the horsepower, torque, fuel efficiency, or other characteristics of diesel engines. These unlawful modifications result in a dramatic increase in multiple pollutants being emitted by each vehicle.

8. One method of disabling a manufacturer-installed emissions control system is to remove the portion of the vehicle's exhaust system that contains some of the emissions control

equipment, such as the DOC and SCR catalyst, and replace it with a section of hollow exhaust tubing sometimes referred to as a "straight pipe." These replacement pipes do not contain emissions control hardware.

9. Alternatively, the DPF is hollowed out by removing the operational internal contents (e.g., catalyst substrate), and then is reconnected to the exhaust pipe. This gives the appearance that the components are still intact but eliminates their effective function. The EGR can be disabled through the installation of "block plates" that cover the EGR valve and prevent the recirculation of exhaust. Additionally, certain functions of emissions control components can be electronically disabled.

10. To prevent an OBD system from detecting that the emissions controls have been modified or removed, the ECM is reprogrammed to disable at least some of the OBD monitoring functions and to modify other engine calibration parameters related to the operation of emissions controls (e.g., turning off diesel exhaust fluid ("DEF") injection, turning off DPF regenerations, and remapping other parameters to account for the removed or disabled emissions controls). If an ECM is not reprogrammed after modification or removal of emissions control equipment, a properly functioning OBD will detect the malfunction or removal of the emissions control equipment, trigger a MIL alert, store a DTC and, in certain instances, cause the vehicle to go into limp mode.

11. Tampering with or removing the software or hardware of emissions components is sometimes referred to as "deletion," that is, "deleting" the emissions control components and monitoring devices from the vehicle. Reprogramming the ECM, including the OBD system, as part of the emissions control deletion can be referred to as "tuning" or "reflashing" the vehicle.

12. DIESEL FREAK LLC is a company headquartered in Gaylord, Michigan. DIESEL FREAK LLC conducted remote reprogramming, or tuning, of OBDs, including deletions, in the Western District of Michigan and elsewhere. RYAN LALONE owns and operates DIESEL FREAK LLC. WADE LALONE, Dustin Rhine, and James Sisson, a/k/a "Jes," were employed as programmers at DIESEL FREAK LLC.

13. ACCURATE TRUCK SERVICE, LLC, headquartered in Grand Rapids, Michigan, is a mechanical shop that provided services, including deletions, for heavy-duty and other vehicles, and is owned and operated by CRAIG SCHOLTEN, RYAN BOS, and DOUGLAS LARSEN. ACCURATE TRUCK SERVICE, LLC's service manager is ROBERT SWAINSTON and its head mechanic during the relevant time period was RANDY CLELLAND, a/k/a "Jeb."

14. GRIFFIN TRANSPORTATION, INC., is a company that shares a premises with, and is associated with, ACCURATE TRUCK SERVICE, LLC, and is owned and operated by CRAIG SCHOLTEN and RYAN BOS. GRIFFIN TRANSPORTATION, INC., is a shipping company that owns, leases, or operates a fleet of semi-truck tractors.

15. SCOTT DEKOCK, during the relevant time period, owned and operated a shipping company in Grand Rapids, Michigan. GLENN HOEZEE was the head mechanic at the company during the relevant time period.

Violation of the Clean Air Act

The United States Attorney re-alleges and incorporates by reference paragraphs 1 through 15 of the Introductory Allegations of this Superseding Information.

Between approximately June 2017 and November 2018, in Kent County, in the Western District of Michigan, Southern Division, and elsewhere, the defendant,

SCOTT DEKOCK,

knowingly falsified, tampered with, and rendered inaccurate, or aided and abetted such falsification, tampering, and rendering inaccurate, a monitoring device required to be maintained and followed under Title 42, United States Code, Chapter 85, namely the OBD or ECM of a 2014 Kenworth, 2013 15-liter Cummins ISX engine, VIN 1XKAD49X2EJ388516, and was a corporate officer responsible for such falsification, tampering, and rendering inaccurate.

42 U.S.C. § 7413(c)(2)(C), (6)
18 U.S.C. § 2

MARK A. TOTTEN
United States Attorney

Dated: June 6, 2023

/s/ Justin M. Presant
JUSTIN M. PRESANT
Assistant United States Attorney