



## PRESS RELEASE

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### **Maryland AG Frosh, NY AG Schneiderman and Massachusetts AG Healey Announce Suits Against Volkswagen, Audi and Porsche for Alleging They Knowingly Sold Over 53,000 Illegally Polluting Cars and SUVs, Violating State Environmental Laws**

*Cover-up of "Defeat Devices" Was Allegedly Orchestrated And Approved At The Highest Levels Of The Company, Up To And Including Former CEO Martin Winterkorn; German Parent Companies Volkswagen AG and Audi AG Directed US Subsidiaries to Submit False Documents, Make False Claims to New York, Massachusetts and Maryland Authorities.*

*Numerous Employees, Tipped Off By A Senior In-House Lawyer In Germany, Also Destroyed Incriminating Documents, Lawsuit Alleges*

**Baltimore, MD (July 19, 2016)** - Maryland Attorney General Brian E. Frosh, New York Attorney General Eric T. Schneiderman and Massachusetts Attorney General Maura Healey announced lawsuits today against Volkswagen AG and its affiliates Audi AG and Porsche AG, as well as their American subsidiaries, for the automakers' sale of diesel automobiles (including over 25,000 in New York, 15,000 in Massachusetts and 12,935 in Maryland) that were fitted with illegal "defeat devices" that concealed illegal amounts of harmful emissions these cars spewed- and then allegedly attempting to cover-up their behavior.

"Maryland has worked tirelessly, through Maryland's Healthy Air Act and Clean Cars Act, as well as stringent regulations adopted by the Department of the Environment, to clean our air. As our complaint sets out, Volkswagen, Audi and Porsche installed defeat devices in their cars to trick regulators and to deceive the public; they did so knowing that their conduct was illegal and their misconduct has hindered our efforts to clean the air and to clean the Chesapeake Bay. Their disregard for the health of our citizens and their disregard for our environment must be punished," said **Attorney General Frosh**.

"The air Marylanders now breathe is the cleanest it's been in decades, and we will not stand for Volkswagen's dirty tactics that undercut our environmental progress," said **Maryland Secretary of the Environment Ben Grumbles**. "The Hogan Administration is committed to reducing pollution from tailpipes and power plants and holding accountable those who threaten the health and wellbeing of our communities and watersheds. Volkswagen must get its act in gear and pay the price for breaking some of the most stringent laws in the country protecting the waters, lands and lungs of Marylanders in the Chesapeake Bay region."

"The allegations against Volkswagen, Audi and Porsche reveal a culture of deeply-rooted corporate arrogance, combined with a conscious disregard for the rule of law or the protection of public health and the environment," **Attorney General Schneiderman said.** "These suits should serve as a siren in every corporate board room, that if any company engages in this type of calculated and systematic illegality, we will bring the full force of the law - and seek the stiffest possible sanctions - to protect our citizens."

"Volkswagen, Audi and Porsche defrauded thousands of Massachusetts consumers, polluted our air, and damaged our environment and then, to make matters worse, allegedly plotted a massive cover-up to mislead environmental regulators," **Attorney General Healey said.** "With today's action, we want to make clear to all auto manufacturers that violating laws designed to protect our environment and our public health is unacceptable and will be punished with significant penalties."

These lawsuits by the New York, Massachusetts and Maryland Attorneys General offices follow a nine-month long investigation by a multistate coalition of over 40 states and other jurisdictions, led by New York, Massachusetts, and four other states. New York State's Department of Environmental Conservation, Massachusetts's Department of Environmental Protection and Maryland's Department of the Environment provided important assistance with the investigation.

The complaints allege, in detail, a cover-up that Volkswagen and Audi allegedly managed for nearly a year-and-a-half after a study by researchers at West Virginia University alerted authorities in this country that these diesel cars emitted much more nitrogen oxides (NOx) when driven on the road than they did when undergoing emissions testing on test equipment used by the U.S. Environmental Protection Agency (EPA) and the California Air Resource Board (CARB) to test the amount of air pollutants emitted by automobiles.

These suits follow the car companies' partial settlements of claims for consumer relief and consumer deception penalties, as well as their agreement to establish a fund to mitigate the environmental damage caused by their admitted misconduct. Those earlier settlements did not resolve any of the claims for civil penalties that New York, Massachusetts, Maryland and other states, as well as the EPA, may bring for the companies' flagrant violations of state and federal environmental laws and regulations, nor did the settlements cover all of the vehicles equipped with emission control defeat devices.

The lawsuits allege that, after the EPA and CARB contacted Volkswagen and Audi about the discrepancies revealed by the West Virginia University study -- which the companies fully knew were caused by their defeat devices -- Audi and Volkswagen:

- Tried to cover up the problem through sham recalls that they knew would not meet the required standards;
- Repeatedly failed to disclose to regulators the true reason - the defeat devices - for the discrepancies; and
- Only confessed to the defeat devices when they knew the regulators had them pinned to the facts.

The lawsuits allege this cover-up was orchestrated and approved at the highest levels of the company, up to and including the former CEO, Martin Winterkorn.

Throughout this entire course of alleged illegal conduct, in which dozens of employees, officers and senior executives were involved, the investigation found no evidence that a single Volkswagen, Audi or Porsche employee came forward to blow the whistle.

As alleged in the complaints, Volkswagen's response to the scandal shows that the company has not reformed its corporate behavior. When the investigation was getting under way in late 2015, numerous employees, tipped off by a senior in-house lawyer in Germany, allegedly destroyed incriminating documents. Just last month, the Volkswagen Supervisory Board recommended a package of bonuses for the Management Board that presided over the cover-up totaling over \$70 million, including generous severance pay to Mr. Winterkorn himself. That recommendation was overwhelmingly approved by the company's shareholders.

The Attorneys Generals' investigation also found evidence that the misconduct of Volkswagen and its Audi and Porsche subsidiaries in the production and sale of these automobiles has few parallels in corporate history.

Specifically, the complaint alleges, that:

- These three affiliated brands made a knowing decision to violate the laws of New York, Massachusetts, Maryland, and other states not just once, but over and over again. There was not just one defeat device that cheated on emissions tests, but six, with the first going back to Audi's European-market cars in the mid-2000's.
- Starting in 2008, Volkswagen and Audi, and later Porsche, began installing these defeat devices in several generations of US-market Volkswagen and Audi diesel engines that equipped over a dozen models, including flagship Audi luxury sedans and high-performance Porsche SUVs, with sales eventually totaling over 25,000 vehicles in New York State, 15,000 in Massachusetts, and 12,935 in Maryland before being pulled from sale last year.
- The defeat devices took the form of computer software designed to ensure that a vehicle's emissions system performed properly *only* during emissions testing. On the road, the defeat device switched off or scaled back the vehicles' emissions systems, with the result that the cars and SUVs emitted nitrogen oxide (NOx) gases - a harmful pollutant linked to numerous respiratory diseases - far above allowable limits, indeed up to 40 times those limits.
- Despite their reputations for engineering excellence, Volkswagen, Audi and Porsche resorted to the illegal defeat devices to enable them to equip their cars with shoddy emissions systems that in many cases would have broken down, without the defeat devices, in less than 50,000 miles, contrary to the durability assurances the automakers had falsely given to regulators.
- In other cases - for example, on the high-end V6 diesel engines that equipped the Porsche, Volkswagen and Audi SUVs and Audi luxury sedans, vehicles that use a urea-based liquid as part of the emissions control system - the automakers installed defeat devices to compensate for the companies' unwillingness either to make the tanks that hold urea large enough to properly serve the cars' emissions system, or to reduce the intervals between urea refills in a manner they believed would turn off diesel car owners. In these

vehicles, the defeat devices limited dosing of the urea-based liquid into the emissions system, again driving up harmful NOx emissions far past their legal limits.

- Volkswagen and Audi researched the laws in this country and previous enforcement cases before embarking on this course. They knew what they were going to do was illegal, and if caught they would face government enforcement and sanctions. They went ahead and did it anyway.
- As a result, the complaints allege that consumers in New York, Massachusetts, Maryland and around the country did not receive what they were sold - a "clean" "green" diesel car that the Volkswagen companies aggressively touted. Indeed, Volkswagen, Audi and Porsche expressly and repeatedly promised consumers that they could have the best of all worlds by purchasing a car or SUV with both outstanding power and excellent environmental performance - and charged high mark-ups on the bases of these claims - claims that Audi and Volkswagen knew to be blatantly false.
- As a further result, the complaints allege that thousands of excess tons of NOx were illegally spewed onto city and rural streets around the country, leaving many residents at greater risk of asthma and other respiratory diseases, and driving up the formation of harmful ozone in the atmosphere. New York - in particular the New York City metropolitan area - has harmful levels of smog pollution, one of the main reasons the State adopted strict car emission standards to combat this problem. New York's complaint alleges that the companies' conduct has made it more difficult to clean up New York's air to levels that are adequate to protect public health. Massachusetts also experiences the harmful effects of smog: every year, the Department of Environmental Protection issues air quality alerts on numerous days because ozone levels make the air unhealthy to breathe. Maryland has recorded some of the highest ozone levels in the Eastern United States, and is subject to the perfect storm for ozone air pollution, where unique meteorology and geography line up with transported pollution from power plants in the west and local pollution from the south, primarily cars along the I-95 corridor.

Today's lawsuits make clear that substantial penalties must be imposed on the Volkswagen companies, above and beyond the amount they have to pay to make American consumers whole and redress the environmental harm they have caused.

The strongest message possible has to be sent: you cannot deliberately flout the laws of New York, Massachusetts, Maryland, and every other state, and not be severely penalized. Neither Volkswagen, nor any other car manufacturer, should ever again conclude that it can engage in this behavior as part of the cost of doing business.

New York Attorney General Schneiderman thanks the New York State Department of Environmental Conservation for its help in this matter. Massachusetts Attorney General Healey thanks the Massachusetts Department of Environmental Protection for its assistance. Maryland Attorney General Frosh thanks the Department of Environment for their assistance.

The New York case is being handled by Senior Enforcement Counsel David Nachman; Deputy Bureau Chief Lisa Burianek, Affirmative Litigation Section Chief Michael Myers, and Assistant Attorneys General John Turrettini, Brian Lusignan and Morgan Costello, Environmental Policy Advisor Peter Washburn and Chief Scientist Alan Belensz of the Environmental Protection

Bureau; Assistant Attorney General Noah Popp of the Consumer Protection Bureau; Senior Trial Counsel David Ellenhorn; and with the assistance of Laura Sarli of the Investor Protection Bureau. The Environmental Protection Bureau is led by Bureau Chief Lemuel Srolovic and the Social Justice Division is led by Alvin Bragg.

The case is being handled in Massachusetts by Gillian Feiner, Chief of AG Healey's False Claims Division, First Assistant Attorney General Christopher Barry-Smith, Christophe Courchesne, Chief of AG Healey's Environmental Protection Division, Peter Mulcahy, Assistant Attorney General in AG Healey's Environmental Protection Division, with critical assistance from Assistant Attorneys General Diane Barry and Gary Klein, along with Attorney Meghan Mackenzie, and Paralegal Krista Roche.

The Maryland lawsuit is being handled by Assistant Attorney General Roberta James. A full copy of Maryland's complaint can be found [here](#). A full audio transcript of Attorney General Frosh's announcement can be found [here](#), and a full video transcript of the announcement can be found [here](#).