

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the matter of:

FTC File Number: 0823151

**The Robert Larson Automotive Group, Inc.,
also d/b/a Larson Volkswagen and Audi
Tacoma**

PETITION TO STRIKE OR LIMIT

In accordance with 16 C.F.R. § 2.10, The Robert Larson Automotive Group, Inc. (“RLAG”), by and through counsel, petitions to quash or limit the Civil Investigative Demand (“CID”) issued upon it by the Federal Trade Commission on December 11, 2015. The CID is attached to Exhibit A hereto as Exhibit 1.

RLAG GENERALLY

RLAG is a Washington State corporation which operates a Toyota dealership in Tacoma, Washington. It does not own or operate Volkswagen or Audi dealerships and it does not service or sell Volkswagens or Audi vehicles. RLAG is owned by Robert S. Larson, who also owns Larson Motors, Inc. (“Larson Motors”). Larson Motors owns and operates a Volkswagen dealership and an Audi dealership, again in Tacoma, Washington. As the owners and operators of car dealerships, neither RLAG nor Larson Motors designs, engineers, tests or devises specifications for the cars they sell. All information regarding the technical aspects of these vehicles is received from the manufacturers.

Neither RLAG nor Larson Motors had any knowledge that the Volkswagen or Audi diesel vehicles it sold and serviced were programmed to perform differently during emissions testing than in real life situations until the story broke in the press. Volkswagen never disclosed this fact to its dealers and never instructed them that the emissions systems on the vehicles were

designed to do anything other than ensure that the engines complied with all clean air requirements. The FTC, through counsel, has represented that neither RLAG nor Larson Motors is the target of an investigation. Rather, the CID is intended to obtain information relating to an investigation of Volkswagen.

THE MEET AND CONFER PROCESS AND TIME FOR COMPLIANCE

The CID was served upon RLAG by email dated December 11, 2015. The initial deadline to meet and confer prior to filing this motion was 14 days later—Christmas day. The deadline for complying with all aspects of the CID, including document production, the ESI protocol, privilege log, and interrogatories was 20 days later, December 31, 2015.

Counsel for RLAG called Elisa Jillson, the attorney for the FTC designated in the CID, on December 15, 2015 and left a phone message asking to be called back so a meet and confer could be scheduled. Ms. Jillson did not return the call. On December 21, 2015, counsel for RLAG sent a letter to Ms. Jillson asking again for a meet and confer date and setting forth the issues to be discussed. A copy of the letter is attached to Exhibit A as Exhibit 2.

Counsel for RLAG and Ms. Jillson conferred by phone on December 22, 2015. During that phone conversation, Ms. Jillson provisionally agreed that the deadline for full compliance could be extended to January 14, 2016. When told that this was still too soon for full compliance, Ms. Jillson stated that she was not authorized to offer more, and that extensions would have to be granted on a rolling basis. Ms. Jillson also agreed that the time for filing this motion would be extended to January 14, 2016.

Counsel for RLAG also participated in a meet and confer with Jonathan Cohen on December 28, 2015. Mr. Cohen confirmed that this motion could be filed prior to January 14, 2016, but indicated this was extraordinary and no further extensions would be granted. Both Ms. Jillson and Mr. Cohen indicated that a motion to quash should be unnecessary as the issues

raised in RLAG's letter of December 21st could be negotiated. However, since the CID states that all objections are waived unless a motion is filed, this motion is necessary to preserve RLAG's and Larson Motors' position.

OBJECTIONS TO THE CIVIL INVESTIGATIVE DEMAND

A. The CID was directed to the wrong entity as RLAG does not own or operate a Volkswagen or Audi dealership.

The CID was directed to the wrong entity and should be stricken. RLAG should be under no obligation to respond as it does not own either a Volkswagen or Audi dealership. Neither should Larson Motors be under threat of failing to fully comply with the CID when it has not even been properly served with a CID directed to it. Accordingly, the CID should be quashed in its entirety.¹

B. The CID requests numerous documents which the FTC should obtain from Volkswagen rather than innocent third parties.

Counsel for the FTC have admitted that similar CIDs were sent to numerous Volkswagen and Audi dealers at the same time as the CID to RLAG, and that none of the dealers are the target of an investigation. Instead, the CIDs were issued because "Volkswagen has not been forthcoming." Whether Volkswagen has been forthcoming or not, the fact remains that Volkswagen is the alleged wrongdoer, Volkswagen has almost all the material information the FTC seeks, and it places a huge burden on dealerships such as Larson Motors to produce what information they have in Volkswagen's stead. The CID should be quashed in its entirety, the FTC should be required to obtain the bulk of the information it seeks from Volkswagen, and then if there is information needed which is unique to individual dealerships, reasonably focused CIDs can be issued for that information only.

¹ Though directed to RLAG, the CID attempts to incorporate related entities within its scope. While not agreeing that this language suffices to require Larson Motors to comply with the CID, these objections are filed on behalf of RLAG and Larson Motors, while reserving Larson Motors' right to deny that it has any obligation to respond to the CID.

C. The time for responding to the CID is unreasonably short.

The CID initially required a complete response within 20 days or by December 31, 2015. Not only did this demand straddle the holidays and year end accounting and financial periods, the 20-day compliance period is completely unreasonable and is not cured by a two week extension to January 14th. The CID requests detailed information going back to January 1, 2008, often in a format not maintained or easily accessed by the dealership. As a result, without an agreement limiting the scope of the CID, it would literally require hiring a new staff person to go through sales and maintenance documents one by one to determine if they related to a diesel vehicle and, if so, whether they contained the requested information. Even then, it is estimated that it would take at least three months to acquire this information after the staff person is hired and trained. It is also doubtful that this document survey would be as complete or accurate as the information provided to Volkswagen at the time of sale. As a result, if the CID is not quashed, Larson Motors should be given at least 120 days to comply, with the option of extending compliance for good cause.

D. The CID is unduly burdensome and cannot be complied with without incurring significant expense.

1. The CID requests information of dubious value which cannot be acquired without reviewing service records, invoice by invoice.

Larson Motors does not maintain many of the records requested going back seven years, and does not maintain the requested information it has in an easily accessible manner. Larson Motors does not maintain a database of customer information by model number of vehicle, but instead tracks information in its electronic archive by customer name and deal number. The archives are not key word searchable. As a result, every record in the archive would have to be examined to determine if it related to a "Covered Vehicle" and contained any of the requested information. Over a seven year period, this would entail many thousands of documents, only a

small percentage of which relate to diesel vehicles. On the other hand, all information relating to customer purchases is reported to Volkswagen at the time of purchase, as is all service work performed under warranty. Volkswagen is believed to maintain this information in a database which is accessible by Volkswagen.

Much of the information requested is also of negligible value compared to the burden of obtaining it, or the quality of the information which would result. For example, the CID requests information relating to the exact amounts of certain fluids replenished by the dealers during servicing and the cost of those fluids. The theory, as described by counsel for the FTC, is that less of these fluids would be consumed if the emissions systems were not operating up to requirements. However, Volkswagen has already admitted publicly that its emissions systems did not operate to required specifications except during testing. The amount of certain fluids placed in individual vehicles adds nothing to the public admissions already made by Volkswagen. Moreover, Larson Motors does not track the amount of such fluids placed in individual vehicles or charge for the fluids separately. The fluids are “topped up” along with other fluids and lubricants as part of a standard vehicle inspection or tune-up charged at a combined price. As a result, the amounts charged by Larson Motors to service diesel vehicles will by and large provide nothing in the way of relevant or useful information to the FTC, and can only be obtained—in part—through great effort by Larson Motors.

2. The ESI protocol is not reasonably calculated to lead to the discovery of relevant information and would impose significant financial burdens upon RLAG.

The CID contains an extensive and burdensome ESI protocol designed to capture metadata for all electronic documents which might be produced. This level of discovery might be relevant for a CID to Volkswagen, but not to a dealership. Volkswagen did not consult with the dealers regarding its decision to cheat on emissions testing, and the dealers were not involved

in any decisions made at the corporate level in regard to emissions. As a result, the metadata attached to any electronic information will not be useful, will not lead to the discovery of other relevant information, and will not justify the substantial burden and cost involved. Larson Motors estimates that to obtain this level of ESI and to process it as required by the CID would require it to retain outside vendors and cost at least \$80,000. This burden and expense cannot be justified based on the information likely to be obtained.

3. The definition of “Merchantability Claims” is overly broad, and by its terms would include any car imported into the United States.

The definition of “Merchantability Claims” is so broad as to be meaningless. For example, it includes implied representations that a vehicle was imported legally, and complies with emissions regulations. This could include any imported vehicle sold by RLAG or Larson Motors. Since the inquiry is directed toward Volkswagen and Audi diesel cars, the description of Merchantability Claims only serves to confuse and needlessly broaden the inquiry.

4. The phrase “Defeat Devices” is not defined.

The CID uses the capitalized phrase “Defeat Devices” as if it were a defined phrase when it is not, nor is it a term commonly used in the industry. According to counsel for the FTC, this phrase was used to incorporate every possible means of cheating on an emissions test. However, this undefined use of a purposely vague phrase improperly puts the burden and risk on the responding party to determine what a Defeating Device is. The phrase is impermissibly vague and should be stricken.

E. The CID requests confidential commercial information and private customer information without providing protections to safeguard the information.

The CID requests proprietary, confidential business information and private information of customers without providing any protections to safeguard the confidentiality of such information. To the contrary, the CID states that any information obtained may be shared with

other unnamed agencies without restriction. If the CID is not quashed, there should be adequate safeguards imposed to protect and maintain the confidentiality of this information.

F. Specific Objections to Document Requests.

Document Request No. 1 requests samples of every advertisement of a Covered Vehicle and information showing when and where the ad was published. Counsel for the FTC has indicated that only advertisements including representations that a diesel vehicle was Environmentally Friendly need be produced, but as written the request would cover every advertisement which included a diesel vehicle.

Document Request No. 2 requests copies of any documents from any source which the dealer understands substantiate claims that a Covered Vehicle was Environmentally Friendly. This request is vague and overbroad. Since diesel vehicles generally get better fuel mileage than their gasoline counterparts, any document stating a vehicle's mileage could potentially come within this request. This request should be directed to Volkswagen which would have been the source for any representations regarding its diesel vehicles.

Document Requests No. 3 – 9 are overbroad asking for "All Documents Relating" to the specific requests.

Document Requests No. 3-9 and 11 request information which would have originated with Volkswagen and should be directed to that entity rather than innocent third parties.

Document Request No. 4 is overbroad to the extent it requests documents which originated with Volkswagen. No such documents originating from Larson Motors are known to exist.

Document Request No. 5 uses the undefined phrase "Defeat Devices" which is impermissibly vague. The request for all communications relating to any diesel vehicle is overbroad as it would include every diesel vehicle sale reported to Volkswagen.

Document Request No. 10 requests confidential, proprietary contracts that have no relevance to this inquiry and are beyond the scope of the Resolution dated April 8, 2011.

Document Request No. 11 is overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible information to the extent that it seeks service records for all Covered Vehicles and purchase records regarding the gross amount of fluids purchased. The burden of responding to the request is also disproportional to the value of the information requested.

G. Specific Objections to Interrogatories.

Interrogatory No. 1 is unduly burdensome in that it would require an examination of each individual sales record for the dealerships. This information was reported to Volkswagen at the time of sale and is believed to be in its possession.

Interrogatory No. 2 is unduly burdensome in that it would require an examination of each individual sales record for the dealerships. This information was reported to Volkswagen at the time of sale and is believed to be in its possession.

Interrogatory No. 3 is unduly burdensome in that it would require an examination of each individual sales record for the dealerships. This information was reported to Volkswagen at the time of sale and is believed to be in its possession.

Interrogatory No. 4 is unduly burdensome in that it requests information which is not maintained by the dealerships and is believed to be in the possession of Volkswagen.

Interrogatory No. 5 requests information not in the possession of the dealership. Larson Motors made no effort to market vehicles as Environmentally Friendly other than through use of materials provided by Volkswagen.

Interrogatory No. 6 requests the identity of every person at any Volkswagen Affiliate responsible for addressing complaints relating to any Covered Vehicles. This information is not known to Larson Motors and should properly be addressed to Volkswagen.

Interrogatory No. 8 is objectionable to the extent it requests information not in the dealerships' possession or control.

Interrogatory No. 9 requests the total number of times since January 1, 2008 that specified fluids have been changed or refilled. This would require an examination of all service records for the Volkswagen and Audi dealerships for the last seven years and could take months to complete. This request is also beyond the scope of the Resolution dated April 8, 2011 which involves deceptive advertising, not service records.

Interrogatories No. 1 – 9 all request information which is principally in the custody and control of Volkswagen. As a result, these requests are more appropriately directed to it. The burden placed on dealerships, both individually and collectively, is disproportional to the value of the information when it can be obtained from a single source.

CONCLUSION

For the above stated reasons, the CID should be quashed. Alternatively, the CID should be limited, and the responding party should be given at least 90 days to reply and its fees and costs should be compensated.

DATED this 13th day of January, 2016.

RYAN SWANSON & CLEVELAND, PLLC

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EXHIBIT A

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the matter of:

FTC File Number: 0823151

**The Robert Larson Automotive Group, Inc.,
also d/b/a Larson Volkswagen and Audi
Tacoma**

**AFFIDAVIT OF ROBERT S. LARSON IN SUPPORT OF
PETITION TO STRIKE OR LIMIT**

1. I am the owner and CEO of The Robert Larson Automotive Group, Inc. (“RLAG”) and Larson Motors, Inc. (“Larson Motors”). I am competent to testify and make the following statements based upon my personal firsthand knowledge.

2. RLAG is a Washington State corporation which operates a Toyota dealership in Tacoma, Washington. It does not own or operate Volkswagen or Audi dealerships and it does not service or sell Volkswagens or Audi vehicles.

3. Larson Motors owns and operates a Volkswagen dealership and an Audi dealership, in Tacoma, Washington. RLAG has no ownership interest in Larson Motors. There is no connection between the two corporations other than my common ownership.

4. Neither RLAG nor Larson Motors designs, engineers, tests or devises specifications for the cars they sell. All information regarding the technical aspects for vehicles is received from the manufacturers. In the case of Volkswagen and Audi vehicles, the information is received from Volkswagen Group of America or Volkswagen AG (referred to jointly hereafter as “Volkswagen”).

5. Neither RLAG nor Larson Motors had any knowledge that the Volkswagen and Audi diesel vehicles it sold and serviced were programmed to perform differently during emissions testing than in real life situations until the story broke in the press. Volkswagen never disclosed this fact to its dealers and never instructed them that the emissions systems on the

vehicles were designed to do anything other than ensure that the engines complied with all applicable clean air requirements.

6. The Civil Investigative Demand (“CID”) places significant burdens upon Larson Motors which it either cannot comply with, or can only comply with at great expense, and over an extended period of time. The company maintains customer sales information in its computerized accounting and financial records for one to two years. Thereafter the information is deleted. Currently, the oldest sales information the company maintains in these records is from August, 2014. In comparison, the CID requests information dating back to January 1, 2008.

7. Larson Motors keeps scanned copies of transaction documents which are believed to date back to 2008. However, these documents are archival, are not kept in a database and are not indexed. The records are accessible only by owner name and deal number. The documents are not key word searchable and are not organized by make or model number. Accordingly, a search of these documents would be extremely time intensive and expensive. Someone would have to examine every transaction to determine if it involved a “Covered Auto” and included the information the FTC has requested. The information would then have to be entered into a spreadsheet. Many thousands of documents would have to be examined, even though only a small percentage of Larson Motors’ sales involve diesel cars from Volkswagen.

8. Similarly, Larson Motors does not maintain a database which allows diesel service information to be accessed with the specificity the CID requires. Again, the information is accessible by owner, not by model number, or the particular type of service performed, and the same type of file-by-file examination would have to take place as with the sales records.

9. Larson Motors does not track or charge separately for the emissions related fluids specified in the CID. Instead, these fluids are checked and typically topped up as part of a multi-

point inspection or periodic tune-up. Even if these service documents were identified, the documents would not state how much fluid was used or what was charged for it.

10. At the current time, our best estimate is that it would take a single person three months working full time to hand compile the potentially available sales and service information requested in the CID. Larson Motors does not have the staffing to comply with this request, and cannot afford to hire someone to search the archives for the information requested.

11. The request for ESI is also beyond the capabilities of Larson Motors. We do not employ an IT person who has the ability to comply with the request. It would require that we retain an outside vendor to capture all our electronic information, to run key word searches, and to cull the requested documents from the many thousands in our system. The best estimate we have at this time is that this would cost \$80,000, an outrageous amount given the limited relevance of any electronic documents Larson Motors might have. To the extent any of these documents are relevant to the FTC's inquiry, they should be available from Volkswagen.

12. All the information requested in the CID relating to new car sales and leases is reported to Volkswagen at the time of purchase or lease, as is all service work performed under warranty. Volkswagen maintains this information in a database which is accessible by Volkswagen. It is my understanding that Volkswagen can access the requested information far more easily than Larson Motors, which has done nothing to warrant this type of intrusion into its business. Conversely, Volkswagen has admitted its culpability publicly.

13. The CID uses the phrase "Defeat Devices." The phrase is not defined in the CID and it is not a term commonly used in the industry.

14. The CID requests proprietary, confidential business information and private information of customers. This is information which Larson Motors maintains as confidential.

EXHIBIT 1



CIVIL INVESTIGATIVE DEMAND

1. TO:

The Robert Larson Automotive Group, Inc., also d/b/a Larson Volkswagen and Audi Tacoma
Attn: Robert Larson, President
7815 S. Tacoma Way
Tacoma, WA 98409

This demand is issued pursuant to Section 20 of the Federal Trade Commission Act, 15 U.S.C. § 57b-1, in the course of an investigation to determine whether there is, has been, or may be a violation of any laws administered by the Federal Trade Commission by conduct, activities or proposed action as described in Item 3.

2. ACTION REQUIRED

You are required to appear and testify.

LOCATION OF HEARING:

YOUR APPEARANCE WILL BE BEFORE:

DATE AND TIME OF HEARING OR DEPOSITION:

- You are required to produce all documents described in the attached schedule that are in your possession, custody, or control, and to make them available at your address indicated above for inspection and copying or reproduction at the date and time specified below.
- You are required to answer the interrogatories or provide the written report described on the attached schedule. Answer each interrogatory or report separately and fully in writing. Submit your answers or report to the Records Custodian named in Item 4 on or before the date specified below.

DATE AND TIME THE DOCUMENTS MUST BE AVAILABLE

DEC 31 2015

3. SUBJECT OF INVESTIGATION

See attached resolution.

4. RECORDS CUSTODIAN/DEPUTY RECORDS CUSTODIAN

Crystal Ostrum (202-326-3405) (costrum@ftc.gov) (Records Custodian)
Anthony Gales (202-326-2847) (agales@ftc.gov) (Deputy Records Custodian)
Federal Trade Commission
600 Pennsylvania Avenue, NW CC-9528
Washington, DC 20580

5. COMMISSION COUNSEL

Elisa Jillson (202-326-3001) (ejllison@ftc.gov)
Federal Trade Commission
600 Pennsylvania Avenue, NW CC-9528
Washington, DC 20580

DATE ISSUED

12/18/15

COMMISSIONER'S SIGNATURE

INSTRUCTIONS AND NOTICES

The delivery of this demand to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply. The production of documents or the submission of answers and report in response to this demand must be made under a sworn certificate, in the form printed on the second page of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances of such production or responsible for answering each interrogatory or report question. This demand does not require approval by OMB under the Paperwork Reduction Act of 1980.

PETITION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any petition to limit or quash this demand be filed within 20 days after service, or, if the return date is less than 20 days after service, prior to the return date. The original and twelve copies of the petition must be filed with the Secretary of the Federal Trade Commission, and one copy should be sent to the Commission Counsel named in Item 5.

YOUR RIGHTS TO REGULATORY ENFORCEMENT FAIRNESS

The FTC has a longstanding commitment to a fair regulatory enforcement environment. If you are a small business (under Small Business Administration standards), you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

The FTC strictly forbids retaliatory acts by its employees, and you will not be penalized for expressing a concern about these activities.

TRAVEL EXPENSES

Use the enclosed travel voucher to claim compensation to which you are entitled as a witness for the Commission. The completed travel voucher and this demand should be presented to Commission Counsel for payment. If you are permanently or temporarily living somewhere other than the address on this demand and it would require excessive travel for you to appear, you must get prior approval from Commission Counsel.

A copy of the Commission's Rules of Practice is available online at <http://ftc.gov/FTCRulesofPractice>. Paper copies are available upon request.

Form of Certificate of Compliance*

I/We do certify that all of the documents and information required by the attached Civil Investigative Demand which are in the possession, custody, control, or knowledge of the person to whom the demand is directed have been submitted to a custodian named herein.

If a document responsive to this Civil Investigative Demand has not been submitted, the objections to its submission and the reasons for the objection have been stated.

If an interrogatory or a portion of the request has not been fully answered or a portion of the report has not been completed, the objections to such interrogatory or uncompleted portion and the reasons for the objections have been stated.

Signature _____

Title _____

Sworn to before me this day:

Notary Public

*In the event that more than one person is responsible for complying with this demand, the certificate shall identify the documents for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided for by 28 U.S.C. § 1746.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS
IN A NON-PUBLIC INVESTIGATION OF UNNAMED MARKETERS
MAKING ENVIRONMENTAL CLAIMS

File No. 0823151

Nature and Scope of Investigation:

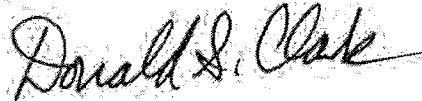
To determine whether unnamed persons, partnerships, corporations, or others have been or are engaged in unfair or deceptive acts or practices, in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, as amended, by: (1) making express or implied claims that are inconsistent with the Commission's Guides for the Use of Environmental Claims, 16 C.F.R. Part 260; or (2) otherwise making express or implied environmental claims. The investigation is also to determine whether Commission action to obtain redress for injury to consumers or to others would be in the public interest.

The Federal Trade Commission hereby resolves and directs that any and all compulsory processes available to it be used in connection with the investigation for a period not to exceed five (5) years from the date of issuance of this resolution. The expiration of this five-year period shall not limit or terminate the investigation of the legal effect of any compulsory process issued during the five-year period. The Federal Trade Commission specifically authorizes the filing or continuation of actions to enforce any such compulsory process after the expiration of the five-year period.

Authority to Conduct Investigation:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, and 57b-1, as amended; the FTC Procedures and Rules of Practice, 16 C.F.R. § 1.1 *et seq.*, and supplements thereto.

By direction of the Commission.



Donald S. Clark
Secretary

Issued: April 8, 2011

**CIVIL INVESTIGATIVE DEMAND
SCHEDULE FOR PRODUCTION OF DOCUMENTS
AND RESPONSES TO INTERROGATORIES**

I. DEFINITIONS

As used in this Civil Investigative Demand, the following definitions apply:

A. "Advertisement" "advertising" or "ad" shall mean any written or verbal statement, illustration, or depiction, whether in English or any other language, that is designed to effect a sale or create interest in the purchasing of goods or services, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, onhold script, upsell script, training materials provided to telemarketing firms, program-length commercial ("infomercial"), the Internet, social media, word-of-mouth campaigns, or any other medium. Promotional Materials are included in the terms "advertisement," "advertising," and "ad." "Advertising" is limited to Advertising meant for consumers in the United States. A request for a copy of each different advertisement shall mean:

1. In the case of print advertisements, including transit/outdoor, direct mail, and free standing inserts, the ad in the form made available for customers to read.

2. In the case of radio advertisements, other audio programming or conference calls, a cassette tape or compact disc (CD) recording and a written script for each advertisement.

3. In the case of television advertisements, including infomercials, a DVD, as well as a photoboard or a transcription for each advertisement.

4. In the case of advertisements displayed or accessible as Web pages on the Internet or in a similar format on a commercial online service, a printout of all screens or pages displayed or accessible online; the date the information was initially placed online; and all information necessary to view or access the information online (i.e., for Web pages, all electronic addresses, or URLs, at which the information is accessible, including any "mirrored" sites and all documents showing metatags for the pages). For similar advertising on commercial online services, provide the name of the commercial online services and the appropriate "Key," "Go," or "Jump" words; a transcript of any audio or video clips contained in the screens or pages; and identification of any audio, video, or other programs necessary to hear or view the clips; and the name, mailing address, and telephone number of any entity with whom you arranged for placement of the information online (i.e., the owner of the Internet domain name(s) and, if different, the owner of the server(s) through which the Web page is made accessible on the Internet).

5. In the case of files archived or accessible online (e.g., at FTP sites, on bulletin boards, or as part of a Web page), the filename and file date of the file, along with the date it initially was posted online; a printout of the file, if feasible; all information necessary to locate, download, and view the file, including, where applicable, the name of the bulletin board and the category, topic, or file area where the file is located; and the identity of any software necessary to decompress the files. In the case of files archived on forums or bulletin boards found in commercial online services, provide the name of the online service and the "Key," "Go," or "Jump" words to access the bulletin board; in the case of files archived or accessible on the Internet at FTP sites, at USENET sites, or on Web pages, all electronic addresses at which the file is available, including any "mirrored" sites; in the case of files archived on dial-in bulletin

boards, provide the telephone number to access the bulletin board, and the name, business telephone number, and mailing address of the owner or operator of the bulletin board.

6. In the case of messages posted on bulletin boards, a printout of the message posted, the date(s) it was posted, and information sufficient to locate and access the bulletin board areas where the information was posted.

7. In the case of messages disseminated via email, a printout of the message, the date(s) it was sent, and the electronic address from which the message was sent. In addition, if a LISTSERV or other mass mailing mechanism was utilized, provide the name of the LIST used to send the message, the email address for subscribing to the LISTSERV or similar mechanism, and, if different, the email address to which messages are submitted for mass mailing.

8. In the case of Advertising disseminated via social media of any sort, a printout of each Advertisement, the date(s) it was sent, the electronic location from which it was sent, and the electronic destinations to which it was sent. In addition, if the social media Advertising produced responses of any sort, a printout of each response, the date it was received, the electronic location from which it was received, and the electronic location from which it was sent. By way of example, "electronic location" includes an address, account, handle, platform, or other social media identifier.

B. "And," as well as "or," shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any specification in this Schedule all information that otherwise might be construed to be outside the scope of the specification.

C. "Any" shall be construed to include "all," and "all" shall be construed to include the word "any."

D. "CID" shall mean the Civil Investigative Demand, including the attached Resolution and this Schedule, and including the Definitions, Instructions, and Specifications.

E. "Claim" means an express or implied representation to a reasonable consumer.

F. "Communication" means any transmission, recording, or record of information, through words or images.

G. "Company," "You," and "Your" mean The Robert Larson Automotive Group, Inc., also d/b/a Larson Volkswagen and Audi Tacoma, its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, employees, agents, consultants, or other persons working for or on behalf of the foregoing.

H. "Covered Vehicle" means (1) any vehicle manufactured, assembled, marketed, or sold by any Volkswagen Affiliate, and that the United States Environmental Protection Agency ("EPA") has publicly alleged to contain a "defeat device" that causes, or may cause, the vehicle to produce materially different emissions during emissions testing than during normal road operation, or (2) any of the following diesel vehicles:

Model Year	Make and Model(s)
2009	VW Jetta, VW Jetta Sportswagen
2010	VW Golf, VW Jetta, VW Jetta Sportswagen, Audi A3

2011	VW Golf, VW Jetta, VW Jetta Sportswagen, Audi A3
2012	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportswagen, VW Passat, Audi A3
2013	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportswagen, VW Passat, Audi A3
2014	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportswagen, VW Passat, VW Touareg, Audi A3
2015	VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportswagen, VW Jetta, VW Passat, Audi A3, Porsche Cayenne
2016	Audi A6 Quattro, Audi A7 Quattro, Audi A8, Audi A8L, Audi Q5

I. **“Document”** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book or label. **“Document” shall also include all documents, materials, and information, including Electronically Stored Information, within the meaning of the Federal Rules of Civil Procedure.**

J. **“Each”** shall be construed to include **“every,”** and **“every”** shall be construed to include **“each.”**

K. **“Electronically Stored Information”** or **“ESI”** shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any electronic medium from which information can be obtained either directly or, if necessary, after translation by you into a reasonably usable form. This includes, but is not limited to, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks; computer hard drives, network shares or servers, or other drives; cloud-based platforms; cell phones, PDAs, computer tablets, or other mobile devices; or other storage media.

L. **“Environmentally Friendly”** Claims include any of the following express or implied representations made with respect to Covered Vehicle emissions:

(1) Claims that the vehicle’s emissions are **“clean”** (including, without limitation, the Claim that the vehicle is a **“CleanDiesel”** vehicle);

(2) Claims that the vehicle produces lower emissions than other vehicles during normal road operation;

(3) Claims regarding smog, including, without limitation, that the vehicle will contribute less to smog than other vehicles during normal road operation;

(4) Claims regarding air pollution other than smog, including, without limitation, that the vehicle will contribute less to other types of air pollution than other vehicles during normal road operation;

(5) Claims regarding global warming, including, without limitation, that the vehicle will contribute less to global warming than other vehicles during normal road operation;

(6) Claims regarding health, including, without limitation, that during normal road operation, the vehicle will contribute less than other vehicles to emissions-related health problems associated with air pollution including, without limitation, lung cancer, asthma, and other respiratory diseases;

(7) Claims that the vehicle received an award, certificate, or other recognition from any third party on the basis that, due in part to its emissions, it is "green," good for the environment, or less harmful to the environment than other vehicles; and

(8) Claims that the vehicle is "green," good for the environment, or less harmful to the environment than other vehicles.

M. "FTC" or "Commission" shall mean the Federal Trade Commission.

N. "Identify" or "the identity of" shall be construed to require identification of (a) natural persons by name, title, present business affiliation, present business address and telephone number, or if a present business affiliation or present business address is not known, the last known business and home addresses; and (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable.

O. "Merchantability Claims" include any of the following express or implied representations made with respect to a Covered Vehicle:

(1) the vehicle was imported legally;

(2) the vehicle complies with all federal, state, and local emissions regulations;

(3) the vehicle is certified or approved by the EPA, and will remain certified or approved during its reasonable lifespan;

(4) the vehicle is certified or approved by state regulatory agencies and any other public authority with jurisdiction over the vehicle, and will remain certified or approved during its reasonable lifespan;

(5) during the vehicle's reasonable lifespan, it will remain legal to operate in all parts of the United States without material changes to the vehicle;

(6) during the vehicle's reasonable lifespan, it will not be subject to recall;

(7) during the vehicle's reasonable lifespan, it will not be required to undergo repairs that adversely affect its fuel economy, power, torque, trunk space, resale value, or other salient attributes;

(8) during the vehicle's reasonable lifespan, its manufacturer will not recommend to owners or lessees that the vehicle undergo repairs that adversely affect its fuel economy, power, torque, trunk space, ease of ownership, resale value, or other salient attributes;

(9) during the vehicle's reasonable lifespan, it will not face restrictions on its ability to be registered, or re-registered, that are unusual relative to other similar vehicles;

(10) during the vehicle's reasonable lifespan, it will not face practical or legal restrictions on its sale or transfer that are unusual relative to other similar vehicles;

(11) during the vehicle's reasonable lifespan, it will not be subject to stigmatization, criticism, or negative media attention that is unusual relative to other similar vehicles; and

(12) the vehicle is designed and manufactured by a trustworthy company,

P. "Relating to" shall mean discussing, describing, reflecting, regarding, containing, analyzing, studying, reporting, commenting on, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

Q. A person is "Responsible" for Advertising or marketing strategy if he or she: (1) decided the goals or contents of the Advertising or marketing strategy; (2) approved the goals or contents of the Advertising or marketing strategy; or (3) substantially influenced the goals or contents of the Advertising or marketing strategy. For avoidance of doubt, a person is not Responsible for Advertising or marketing strategy if he or she has no material discretion or influence concerning the goals or contents of the Advertising or marketing strategy.

R. "Volkswagen Affiliate" means Volkswagen AG, Volkswagen Group of America, Inc., Volkswagen of America, Inc., VW Credit, Inc., Audi of America, Inc., Porsche Cars North America, Inc., Dr. Ing. H. c. Fr. Porsche AG, Porsche Automobil Holding SE, any of these entities' wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, affiliates, any entity of any sort that any Volkswagen Affiliate authorizes (or authorized) to sell or lease Covered Vehicles, any entity of any sort that any Volkswagen Affiliate authorizes (or authorized) to finance or help finance consumer purchases of Covered Vehicles, and all directors, officers, employees, agents, consultants, other persons working for or on behalf of any of the foregoing. For avoidance of doubt, "Volkswagen Affiliate" includes franchises and dealerships.

II. INSTRUCTIONS

A. **Sharing of Information:** The Commission often makes its files available to other civil and criminal federal, state, local, or foreign law enforcement agencies. The Commission may make information supplied by you available to such agencies where appropriate pursuant to the Federal Trade Commission Act and 16 C.F.R. § 4.11 (c) and (j). Information you provide may be used in any federal, state, or foreign civil or criminal proceeding by the Commission or other agencies.

B. **Meet and Confer:** You must contact Elisa Jillson ((202) 326-3001; ejillson@ftc.gov) as soon as possible to schedule a meeting (telephonic or in person) to be held within fourteen (14) days after receipt of this CID, or before the deadline for filing a petition to quash, whichever is first, in order to discuss compliance and to address and attempt to resolve all issues, including issues relating to protected status and the form and manner in which claims of protected status will be asserted, and the submission of ESI and other electronic productions as described in these Instructions. Pursuant to 16 C.F.R. § 2.7(k), you must make available personnel with the knowledge necessary for resolution of the issues relevant to compliance with

this CID, including but not limited to personnel with knowledge about your information or records management systems, relevant materials such as organizational charts, and samples of material required to be produced. If any issues relate to ESI, you must make available a person familiar with your ESI systems and methods of retrieval.

C. Applicable Time Period: Unless otherwise directed in the specifications, the applicable time period for the request shall be from January 1, 2008, until the date of full and complete compliance with this CID.

D. Claims of Privilege: If any material called for by this CID is withheld based on a claim of privilege, work product protection, or statutory exemption, or any similar claim (*see* 16 C.F.R. § 2.7(a)(4)), the claim must be asserted no later than the return date of this CID. In addition, pursuant to 16 C.F.R. § 2.11(a)(1), submit, together with the claim, a detailed log of the items withheld. The information in the log shall be of sufficient detail to enable the Commission staff to assess the validity of the claim for each document, including attachments, without disclosing the protected information. Submit the log in a searchable electronic format, and, for each document, including attachments, provide:

- (1) Document control number(s);
- (2) The full title (if the withheld material is a document) and the full file name (if the withheld material is in electronic form);
- (3) A description of the material withheld (for example, a letter, memorandum, or email), including any attachments;
- (4) The date the material was created;
- (5) The date the material was sent to each recipient (if different from the date the material was created);
- (6) The email addresses, if any, or other electronic contact information to the extent used in the document, from which and to which each document was sent;
- (7) The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all authors;
- (8) The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all recipients of the material;
- (9) The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all persons copied on the material;
- (10) The factual basis supporting the claim that the material is protected; and
- (11) Any other pertinent information necessary to support the assertion of protected status by operation of law.

16 C.F.R. § 2.11(a)(1)(i)-(xi).

In the log, identify by an asterisk each attorney who is an author, recipient, or person copied on the material. The titles, business addresses, email addresses, and relevant affiliations

of all authors, recipients, and persons copied on the material may be provided in a legend appended to the log. However, provide in the log the information required by Instruction D.6. 16 C.F.R. § 2.11(a)(2). The lead attorney or attorney responsible for supervising the review of the material and who made the determination to assert the claim of protected status must attest to the log. 16 C.F.R. § 2.11(a)(1).

If only some portion of any responsive material is privileged, all non-privileged portions of the material must be submitted. Otherwise, produce all responsive information and material without redaction. 16 C.F.R. § 2.11(c). The failure to provide information sufficient to support a claim of protected status may result in denial of the claim. 16 C.F.R. § 2.11(a)(1).

E. Document Retention: You shall retain all documentary materials used in the preparation of responses to the specifications of this CID. The Commission may require the submission of additional documents at a later time during this investigation. **Accordingly, you should suspend any routine procedures for document destruction and take other measures to prevent the destruction of documents that are in any way relevant to this investigation during its pendency, irrespective of whether you believe such documents are protected from discovery by privilege or otherwise.** See 15 U.S.C. § 50; see also 18 U.S.C. §§ 1505, 1519.

F. Petitions to Limit or Quash: Any petition to limit or quash this CID must be filed with the Secretary of the Commission no later than twenty (20) days after service of the CID, or, if the return date is less than twenty (20) days after service, prior to the return date. Such petition shall set forth all assertions of protected status or other factual and legal objections to the CID, including all appropriate arguments, affidavits, and other supporting documentation. 16 C.F.R. § 2.10(a)(1). Such petition shall not exceed 5,000 words as set forth in 16 C.F.R. § 2.10(a)(1) and must include the signed separate statement of counsel required by 16 C.F.R. § 2.10(a)(2). **The Commission will not consider petitions to quash or limit absent a pre-filing meet and confer session with Commission staff and, absent extraordinary circumstances, will consider only issues raised during the meet and confer process.** 16 C.F.R. § 2.7(k); see also § 2.11(b).

G. Modification of Specifications: If you believe that the scope of the required search or response for any specification can be narrowed consistent with the Commission's need for documents or information, you are encouraged to discuss such possible modifications, including any modifications of definitions and instructions, with Elisa Jillson at (202) 326-3001. All such modifications must be agreed to in writing by the Bureau Director, or a Deputy Bureau Director, Associate Director, Regional Director, or Assistant Regional Director. 16 C.F.R. § 2.7(l).

H. Certification: A responsible corporate officer of the Company shall certify that the response to this CID is complete. This certification shall be made in the form set out on the back of the CID form, or by a declaration under penalty of perjury as provided by 28 U.S.C. § 1746.

I. Scope of Search: This CID covers documents and information in Your possession or under Your actual or constructive custody or control including, but not limited to, documents and information in the possession, custody, or control of your attorneys, accountants, directors, officers, employees, and other agents and consultants, whether or not such documents and information were received from or disseminated to any person or entity.

J. Document Production: You shall produce the documentary material by making all responsive documents available for inspection and copying at your principal place of business. Alternatively, you may elect to send all responsive documents to **Crystal Ostrum, Investigator,**

Federal Trade Commission, 600 Pennsylvania Ave. NW, CC-9528, Washington, DC 20580. Because postal delivery to the Commission is subject to delay due to heightened security precautions, please use a courier service such as Federal Express or UPS. Notice of your intended method of production must be given by telephone to Elisa Jillson at (202) 326-3001 at least five (5) days prior to the return date.

K. Document Identification: Documents that may be responsive to more than one specification of this CID need not be submitted more than once; however, your response should indicate, for each document submitted, each specification to which the document is responsive. If any documents responsive to this CID have been previously supplied to the Commission, you may comply with this CID by identifying the document(s) previously provided and the date of submission. Documents should be produced in the order in which they appear in your files or as electronically stored and without being manipulated or otherwise rearranged; if documents are removed from their original folders, binders, covers, containers, or electronic source in order to be produced, then the documents shall be identified in a manner so as to clearly specify the folder, binder, cover, container, or electronic media or file paths from which such documents came. In addition, number all documents in your submission with a unique identifier, and indicate the total number of documents in your submission.

L. Production of Copies: Unless otherwise stated, legible photocopies (or electronically rendered images or digital copies of native electronic files) may be submitted in lieu of original documents, provided that the originals are retained in their state at the time of receipt of this CID. Further, copies of originals may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents; provided, however, that submission of a copy shall constitute a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any Commission proceeding or court of law; and provided further that you shall retain the original documents and produce them to Commission staff upon request. Copies of marketing materials and advertisements shall be produced in color, and copies of other materials shall be produced in color if necessary to interpret them or render them intelligible.

M. Electronic Submission of Documents: The following guidelines refer to the production of any ESI or digitally imaged hard copy documents. Before submitting any electronic production, you must confirm with the Commission counsel named above that the proposed formats and media types will be acceptable to the Commission. The FTC requests Concordance load-ready electronic productions, including DAT and OPT load files.

1. ESI: Documents created, utilized, or maintained in electronic format in the ordinary course of business should be delivered to the FTC as follows:

a. Spreadsheet and presentation programs, including but not limited to Microsoft Access, SQL, and other databases, as well as Microsoft Excel and PowerPoint files, must be produced in native format with extracted text and metadata. Data compilations in Excel spreadsheets, or in delimited text formats, must contain all underlying data un-redacted with all underlying formulas and algorithms intact. All database productions (including structured data document systems) must include a database schema that defines the tables, fields, relationships, views, indexes, packages, procedures, functions, queues, triggers, types, sequences, materialized views, synonyms, database links, directories, Java, XML schemas, and other elements, including the use of any report writers and custom user data interfaces;

b. All ESI other than those documents described in A.1 above must be provided in native electronic format with extracted text or Optical Character Recognition (OCR) and all related metadata, and with corresponding image renderings as converted to Group IV, 300

DPI, single-page Tagged Image File Format (TIFF) or as color JPEG images (where color is necessary to interpret the contents);

c. Each electronic file should be assigned a unique document identifier ("DocID") or Bates reference.

2. Hard Copy Documents: Documents stored in hard copy in the ordinary course of business should be submitted in an electronic format, subject to the following requirements:

a. The documents should be true, correct, and complete copies of the original documents as converted to TIFF (or color JPEG) images with corresponding document-level OCR text;

b. Each page shall be endorsed with a document identification number (which can be a Bates number or a document control number);

c. Logical document determination should be clearly rendered in the accompanying load file and should correspond to that of the original document; and

d. Documents shall be produced in color where necessary to interpret them or render them intelligible.

3. For each document electronically submitted to the FTC, include the following metadata fields in a standard ASCII delimited Concordance DAT file:

a. For electronic mail: begin Bates or unique document identification number ("DocID"), end Bates or DocID, mail folder path (location of email in personal folders, subfolders, deleted or sent items), custodian, from, to, cc, bcc, subject, date and time sent, date and time received, and complete attachment identification, including the Bates or DocID of the attachments (AttachIDs) delimited by a semicolon, MD5 or SHA Hash value, and link to native file;

b. For email attachments: begin Bates or DocID, end Bates or DocID, parent email ID (Bates or DocID), page count, custodian, source location/file path, file name, file extension, file size, author, date and time created, date and time modified, date and time printed, MD5 or SHA Hash value, and link to native file;

c. For loose electronic documents (as retrieved directly from network file stores, hard drives, etc.): begin Bates or DocID, end Bates or DocID, page count, custodian, source media, file path, filename, file extension, file size, author, date and time created, date and time modified, date and time printed, MD5 or SHA Hash value, and link to native file;

d. For imaged hard copy documents: begin Bates or DocID, end Bates or DocID, page count, source, and custodian; and where applicable, file folder name, binder name, attachment range, or other such references, as necessary to understand the context of the document as maintained in the ordinary course of business.

4. If you intend to utilize any de-duplication or email threading software or services when collecting or reviewing information that is stored in your computer systems or electronic storage media, or if your computer systems contain or utilize such software, you must contact the Commission counsel named above to determine whether and in what manner you may use such software or services when producing materials in response to this request.

5. Submit electronic productions as follows:
- a. With passwords or other document-level encryption removed or otherwise provided to the FTC;
 - b. As uncompressed electronic volumes on size-appropriate, Windows-compatible, media;
 - c. All electronic media shall be scanned for and free of viruses; and
 - d. Data encryption tools may be employed to protect privileged or other personal or private information. The FTC accepts TrueCrypt, PGP, and SecureZip encrypted media. The passwords should be provided in advance of delivery, under separate cover. Alternate means of encryption should be discussed and approved by FTC counsel.
6. Please mark the exterior of all packages containing electronic media sent through the U.S. Postal Service or other delivery services as follows:

**MAGNETIC MEDIA – DO NOT X-RAY
MAY BE OPENED FOR POSTAL INSPECTION.**

7. All electronic files and images shall be accompanied by a production transmittal letter which includes:

- a. A summary of the number of records and all underlying images, emails, and associated attachments, native files, and databases in the production; and
- b. An index that identifies the corresponding consecutive document identification number(s) used to identify each person's documents and, if submitted in paper form, the box number containing such documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that the Commission counsel named above determines prior to submission that the machine-readable form would be in a format that allows the agency to use the computer files). The Commission counsel named above will provide a sample index upon request.

A Bureau of Consumer Protection Production Guide is available upon request from the Commission counsel named above. This guide provides detailed directions on how to fully comply with this instruction.

N. Sensitive Personally Identifiable Information: If any material called for by these requests contains sensitive personally identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production. If that information will not be redacted, contact us to discuss encrypting any electronic copies of such material with encryption software such as SecureZip and provide the encryption key in a separate communication. For purposes of these requests, sensitive personally identifiable information includes: an individual's Social Security number alone; or an individual's name or address or phone number in combination with one or more of the following: date of birth; Social Security number; driver's license number or other state identification number or a foreign country equivalent; passport number; financial account number; credit card number; or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an

individual.

O. Information Identification: Each specification and subspecification of this CID shall be answered separately and fully in writing under oath. All information submitted shall be clearly and precisely identified as to the specification(s) or subspecification(s) to which it is responsive.

P. Certification of Records of Regularly Conducted Activity: Attached is a Certification of Records of Regularly Conducted Activity, which may reduce the need to subpoena the Company to testify at future proceedings in order to establish the admissibility of documents produced in response to this CID. You are asked to execute this Certification and provide it with your response.

III. SPECIFICATIONS—DOCUMENT REQUESTS

- (1) Representative samples of every unique Advertisement for Covered Vehicles that contain Environmentally Friendly Claims or Merchantability Claims, and Documents sufficient to establish when and where You disseminated each such Advertisement for Covered Vehicles.
- (2) All Documents that substantiated, purported to substantiate, or You understood did substantiate, any Claim that Any Covered Vehicle is Environmentally Friendly.
- (3) All Documents Relating To the presence of Environmentally Friendly Claims in Covered Vehicle Advertising, including without limitation all Documents Relating To the use of the word "CleanDiesel."
- (4) All Documents Relating To sales and marketing strategy or methods for Covered Vehicles Relating To Environmentally Friendly Claims or Merchantability Claims, including without limitation sales materials, market research such as consumer perception surveys, salesperson instructions, sales or marketing presentations, salesperson coaching materials, sales guides, or scripts.
- (5) All Documents Relating To (a) actual or potential investigations or testing of Defeat Devices or Covered Vehicle emissions; (b) statements, representations, or claims by Volkswagen Affiliates Relating To Covered Vehicle emissions; or (c) Communications after September 14, 2015, with any Volkswagen Affiliate or Volkswagen dealers' association Relating To Covered Vehicles.
- (6) All Documents Relating To complaints, concerns or questions by anyone Relating To Environmentally Friendly Advertising Claims or Defeat Devices.
- (7) All Documents Relating To any goodwill program or other effort to Communicate with Covered Vehicle owners or lessees after September 14, 2015, or to Communicate with the public concerning Covered Vehicles after September 14, 2015.
- (8) All Documents Relating To any compensation, incentives, bonuses, repayment, or offsets any Volkswagen Affiliate has given to You, or promised to give to You, since September 14, 2015, Relating To Covered Vehicles.
- (9) All Documents Relating To any compensation, incentives, bonuses, repayment, or offsets You or any Volkswagen Affiliate has given (or promised to give) to owners or lessees of Covered Vehicles You sold or leased, since September 14, 2015.
- (10) All franchise agreements or other contracts that address the relationship between You and any Volkswagen Affiliate since January 1, 2008.
- (11) All Documents Relating To Diesel Exhaust Fluid ("DEF"), AdBlue, AUS 32, urea solution, or any other fluid used in selective catalytic reduction (SCR) to reduce NOx emissions in Covered Vehicles, including without limitation service records for changing or refilling such fluids in Covered Vehicles, Communications about use or frequency of changing or refilling such fluids in Covered Vehicles, and purchase records for such fluids.

IV. SPECIFICATIONS—INTERROGATORIES

- (1) State the total number of Covered Vehicles you have (a) sold; or (b) leased.
- (2) State the name, address, email address and telephone number for each person who purchased a Covered Vehicle from You. For each person, state the vehicle model, vehicle year, vehicle trim, Vehicle Identification Number (VIN), the date of purchase, odometer reading on the date of purchase, and the purchase price.
- (3) State the name, address, email address and telephone number for each person who leased a Covered Vehicle from You. For each person, state the vehicle model, vehicle year, vehicle trim, Vehicle Identification Number (VIN), the dates of the lease contract, odometer reading on the date of the lease, lease terms, base price or agreed-upon value of the vehicle, residual value or purchase option price, contract money factor, net or adjusted capitalized cost used to calculate the monthly payment, monthly payment, monthly use or rental tax, and any balloon payment or end-of-lease payment.
- (4) Identify each unique Advertisement or other Document or object Relating To Environmentally Friendly Claims or Merchantability Claims for Covered Vehicles that any Volkswagen Affiliate provided to You, that You publicly disseminated or relied upon to make such claims.
- (5) Identify every person (whether employed by You, any Volkswagen Affiliate, or otherwise) Responsible for the marketing or sales of Covered Vehicles as Environmentally Friendly, or who substantively coordinated or consulted with You Relating To such marketing or sales.
- (6) Identify every person (whether employed by You, any Volkswagen Affiliate, or otherwise) Responsible for addressing complaints, concerns or questions by anyone Relating To Covered Vehicles.
- (7) Explain what compensation, incentives, bonuses, repayment, or offsets any Volkswagen Affiliate has given to You, or promised to give to You, since September 14, 2015, Relating To Covered Vehicles.
- (8) Explain what compensation, incentives, bonuses, repayment, or offsets You or any Volkswagen Affiliate has given (or promised to give) to owners or lessees of Covered Vehicles You sold or leased, since September 14, 2015.
- (9) State the total number of times since January 1, 2008, that You have changed or refilled DEF, AdBlue, AUS 32, urea solution, or any other fluid used in selective catalytic reduction (SCR) to reduce NOx emissions in Covered Vehicles.

CERTIFICATION OF RECORDS OF REGULARLY CONDUCTED ACTIVITY
Pursuant to 28 U.S.C. § 1746

1. I, _____, have personal knowledge of the facts set forth below and am competent to testify as follows:
2. I have authority to certify the authenticity of the records produced by _____ and attached hereto.
3. The documents produced and attached hereto by _____ are originals or true copies of records of regularly conducted activity that:
 - (a) Were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
 - (b) Were kept in the course of the regularly conducted activity of _____; and
 - (c) Were made by the regularly conducted activity as a regular practice of _____.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2015.

Signature

EXHIBIT 2



Lawyers since 1897

Robert J. Curran
Member
Licensed in Washington and Idaho

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curran@ryanlaw.com
Ref. No. 1236430.01/013643.00001

December 21, 2015

VIA EMAIL: ejillson@ftc.gov

Elisa Jillson
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: CID directed to The Robert Larson Automotive Group, Inc. dated December 11, 2015.

Dear Ms. Jillson:

This letter is in regard to the CID (copy attached) sent to our client, The Robert Larson Automotive Group, Inc. ("RLAG") on December 11, 2015 with a return date of December 31, 2015. Per the instructions in the CID, I attempted to contact you by phone and left a message. As I have not heard back from you, and the CID sets a 14-day deadline to meet and confer regarding the scope of the CID, I am following up with this letter. If I do not hear back from you within the 14-day period, which expires on Christmas day, I will assume this letter complies with the meet and confer requirement, or that you will make a reasonable accommodation to extend the deadline.

The CID places substantial discovery requirements on RLAG which are excessive under the circumstances. As I hope you can appreciate, Volkswagen dealers sell and service cars. They do not develop automobiles, conduct or review the engineering or testing, nor do they participate in decisions made by the manufacturer regarding emissions systems. As a result, dealers rely upon the veracity of Volkswagen's representations, just as their retail customers do. Any documents a dealership might have relating to emission system claims would have been distributed by Volkswagen and can be obtained more appropriately through it.

RLAG believes the CID is overbroad and improper in the following respects. RLAG reserves the right to amend this list of items as more information is obtained. Given the shortness of time to respond, these are the issues known at this point in time. Should you wish to discuss any of the following, we are available to do so at a mutually agreeable time.

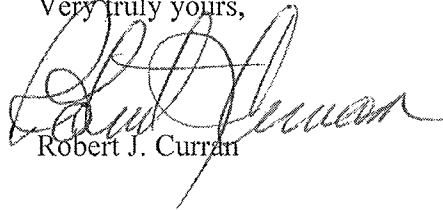
- RLAG does not own or operate a Volkswagen or Audi dealership. Volkswagen of Tacoma is owned by Larson Motors, Inc. which is related only by common ownership. If the CID is intended to include Larson Motors, Inc. the CID to RLAG should be withdrawn and a new CID served upon Larson Motors, Inc.
- The time period for responding—by December 31—is impossibly short and falls within the Christmas holidays when many people are taking time off. The time period to respond needs to be extended and the information sought prioritized and staged.
- Much of the information sought can more appropriately be obtained from Volkswagen which has admitted wrongdoing and is the source of the information claimed to be misleading. This would include all information regarding diesel engine performance, testing, environmental claims, national advertising, remediation, customer and dealer incentives, and compliance with EPA and importing requirements. None of this information originates from a dealership.
- The definition of “Merchantability Claims” is so broad as to be meaningless. For example, it includes implied representations that a vehicle was imported legally, and complies with emissions regulations. This could include any imported vehicles sold by RLAG or its related companies. Since your inquiry is directed toward Volkswagen and Audi diesel cars, the description of Merchantability Claims only serves to confuse and needlessly broaden the inquiry.
- The meet and confer timelines are too short. Adequate time is needed to investigate what information exists, and in what form, before there can be a meaningful meet and confer on all topics. We would suggest that there first be a meet and confer with counsel to determine the FTC’s priorities, possible limitations, and appropriate timelines.
- The CID requests information which is not tracked in the ordinary course of business. For example, Int. No. 9 requests the total number of times since January 1, 2008 that specified fluids have been changed or refilled. This would require an examination of all service records for the Volkswagen and Audi dealerships for the last seven years and could take months to complete. This request also appears to be beyond the scope of the Resolution dated April 8, 2011 which involves deceptive advertising, not service records.
- The request for ESI is needlessly burdensome and expensive. Dealerships are unlikely to have smoking gun emails or memos. All information a dealership would have regarding diesel emissions would originate from Volkswagen. Hard copies of information produced, or native files of certain documents such as spreadsheets, should be sufficient. If metadata is needed for a particular communication, a more focused request can be made later. It is anticipated that the cost of compliance with the ESI protocol as described in the CID would exceed \$80,000.

Elisa Jillson
December 21, 2015
Page 3

- The CID requests proprietary, confidential business information and private information of customers without providing any protections to safeguard the confidentiality of such information.
- The term "Defeat Devices" is not defined.
- The Interrogatories ask for information not known to RLAG, or within its custody and control. For example, Int. No. 6 asks for the identity of every person at any Volkswagen Affiliate responsible for addressing complaints relating to any Covered Vehicles. This request should be addressed to Volkswagen.

Again, RLAG is willing to discuss a reasonable procedure for complying with the CID with reasonable limitations and clarifications. Please let me know a time when you would be available for a phone conference.

Very truly yours,



Robert J. Curran

Enclosure
cc: Robert S. Larson

Form of Certificate of Compliance*

I/We do certify that all of the documents and information required by the attached Civil Investigative Demand which are in the possession, custody, control, or knowledge of the person to whom the demand is directed have been submitted to a custodian named herein.

If a document responsive to this Civil Investigative Demand has not been submitted, the objections to its submission and the reasons for the objection have been stated.

If an interrogatory or a portion of the request has not been fully answered or a portion of the report has not been completed, the objections to such interrogatory or uncompleted portion and the reasons for the objections have been stated.

Signature _____

Title _____

Sworn to before me this day

Notary Public

*In the event that more than one person is responsible for complying with this demand, the certificate shall identify the documents for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided for by 28 U.S.C. § 1746.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS
IN A NON-PUBLIC INVESTIGATION OF UNNAMED MARKETERS
MAKING ENVIRONMENTAL CLAIMS

File No. 0823151

Nature and Scope of Investigation:

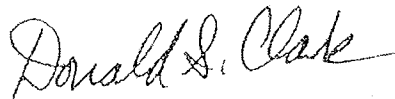
To determine whether unnamed persons, partnerships, corporations, or others have been or are engaged in unfair or deceptive acts or practices, in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, as amended, by: (1) making express or implied claims that are inconsistent with the Commission's Guides for the Use of Environmental Claims, 16 C.F.R. Part 260; or (2) otherwise making express or implied environmental claims. The investigation is also to determine whether Commission action to obtain redress for injury to consumers or to others would be in the public interest.

The Federal Trade Commission hereby resolves and directs that any and all compulsory processes available to it be used in connection with the investigation for a period not to exceed five (5) years from the date of issuance of this resolution. The expiration of this five-year period shall not limit or terminate the investigation of the legal effect of any compulsory process issued during the five-year period. The Federal Trade Commission specifically authorizes the filing or continuation of actions to enforce any such compulsory process after the expiration of the five-year period.

Authority to Conduct Investigation:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, and 57b-1, as amended; the FTC Procedures and Rules of Practice, 16 C.F.R. § 1.1 *et seq.*, and supplements thereto.

By direction of the Commission.



Donald S. Clark
Secretary

Issued: April 8, 2011

CIVIL INVESTIGATIVE DEMAND
SCHEDULE FOR PRODUCTION OF DOCUMENTS
AND RESPONSES TO INTERROGATORIES

1. DEFINITIONS

As used in this Civil Investigative Demand, the following definitions apply:

A. "Advertisement" "advertising" or "ad" shall mean any written or verbal statement, illustration, or depiction, whether in English or any other language, that is designed to effect a sale or create interest in the purchasing of goods or services, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, onhold script, upsell script, training materials provided to telemarketing firms, program-length commercial ("infomercial"), the Internet, social media, word-of-mouth campaigns, or any other medium. Promotional Materials are included in the terms "advertisement," "advertising," and "ad." "Advertising" is limited to Advertising meant for consumers in the United States. A request for a copy of each different advertisement shall mean:

1. In the case of print advertisements, including transit/outdoor, direct mail, and free standing inserts, the ad in the form made available for customers to read.

2. In the case of radio advertisements, other audio programming or conference calls, a cassette tape or compact disc (CD) recording and a written script for each advertisement.

3. In the case of television advertisements, including infomercials, a DVD, as well as a photoboard or a transcription for each advertisement.

4. In the case of advertisements displayed or accessible as Web pages on the Internet or in a similar format on a commercial online service, a printout of all screens or pages displayed or accessible online; the date the information was initially placed online; and all information necessary to view or access the information online (i.e., for Web pages, all electronic addresses, or URLs, at which the information is accessible, including any "mirrored" sites and all documents showing metatags for the pages). For similar advertising on commercial online services, provide the name of the commercial online services and the appropriate "Key," "Go," or "Jump" words; a transcript of any audio or video clips contained in the screens or pages; and identification of any audio, video, or other programs necessary to hear or view the clips; and the name, mailing address, and telephone number of any entity with whom you arranged for placement of the information online (i.e., the owner of the Internet domain name(s) and, if different, the owner of the server(s) through which the Web page is made accessible on the Internet).

5. In the case of files archived or accessible online (e.g., at FTP sites, on bulletin boards, or as part of a Web page), the filename and file date of the file, along with the date it initially was posted online; a printout of the file, if feasible; all information necessary to locate, download, and view the file, including, where applicable, the name of the bulletin board and the category, topic, or file area where the file is located; and the identity of any software necessary to decompress the files. In the case of files archived on forums or bulletin boards found in commercial online services, provide the name of the online service and the "Key," "Go," or "Jump" words to access the bulletin board; in the case of files archived or accessible on the Internet at FTP sites, at USENET sites, or on Web pages, all electronic addresses at which the file is available, including any "mirrored" sites; in the case of files archived on dial-in bulletin

boards, provide the telephone number to access the bulletin board, and the name, business telephone number, and mailing address of the owner or operator of the bulletin board.

6. In the case of messages posted on bulletin boards, a printout of the message posted, the date(s) it was posted, and information sufficient to locate and access the bulletin board areas where the information was posted.

7. In the case of messages disseminated via email, a printout of the message, the date(s) it was sent, and the electronic address from which the message was sent. In addition, if a LISTSERV or other mass mailing mechanism was utilized, provide the name of the LIST used to send the message, the email address for subscribing to the LISTSERV or similar mechanism, and, if different, the email address to which messages are submitted for mass mailing.

8. In the case of Advertising disseminated via social media of any sort, a printout of each Advertisement, the date(s) it was sent, the electronic location from which it was sent, and the electronic destinations to which it was sent. In addition, if the social media Advertising produced responses of any sort, a printout of each response, the date it was received, the electronic location from which it was received, and the electronic location from which it was sent. By way of example, "electronic location" includes an address, account, handle, platform, or other social media identifier.

B. "And," as well as "or," shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any specification in this Schedule all information that otherwise might be construed to be outside the scope of the specification.

C. "Any" shall be construed to include "all," and "all" shall be construed to include the word "any."

D. "CID" shall mean the Civil Investigative Demand, including the attached Resolution and this Schedule, and including the Definitions, Instructions, and Specifications.

E. "Claim" means an express or implied representation to a reasonable consumer.

F. "Communication" means any transmission, recording, or record of information, through words or images.

G. "Company," "You," and "Your" mean The Robert Larson Automotive Group, Inc., also d/b/a Larson Volkswagen and Audi Tacoma, its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, employees, agents, consultants, or other persons working for or on behalf of the foregoing.

H. "Covered Vehicle" means (1) any vehicle manufactured, assembled, marketed, or sold by any Volkswagen Affiliate, and that the United States Environmental Protection Agency ("EPA") has publicly alleged to contain a "defeat device" that causes, or may cause, the vehicle to produce materially different emissions during emissions testing than during normal road operation, or (2) any of the following diesel vehicles:

Model Year	Make and Model(s)
2009	VW Jetta, VW Jetta Sportswagen
2010	VW Golf, VW Jetta, VW Jetta Sportswagen, Audi A3

2011	VW Golf, VW Jetta, VW Jetta Sportswagen, Audi A3
2012	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportswagen, VW Passat, Audi A3
2013	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportswagen, VW Passat, Audi A3
2014	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportswagen, VW Passat, VW Touareg, Audi A3
2015	VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportswagen, VW Jetta, VW Passat, Audi A3, Porsche Cayenne
2016	Audi A6 Quattro, Audi A7 Quattro, Audi A8, Audi A8L, Audi Q5

I. **“Document”** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book or label. **“Document” shall also include all documents, materials, and information, including Electronically Stored Information, within the meaning of the Federal Rules of Civil Procedure.**

J. **“Each”** shall be construed to include **“every,”** and **“every”** shall be construed to include **“each.”**

K. **“Electronically Stored Information”** or **“ESI”** shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any electronic medium from which information can be obtained either directly or, if necessary, after translation by you into a reasonably usable form. This includes, but is not limited to, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks; computer hard drives, network shares or servers, or other drives; cloud-based platforms; cell phones, PDAs, computer tablets, or other mobile devices; or other storage media.

L. **“Environmentally Friendly”** Claims include any of the following express or implied representations made with respect to Covered Vehicle emissions:

(1) Claims that the vehicle’s emissions are **“clean”** (including, without limitation, the Claim that the vehicle is a **“CleanDiesel”** vehicle);

(2) Claims that the vehicle produces lower emissions than other vehicles during normal road operation;

(3) Claims regarding smog, including, without limitation, that the vehicle will contribute less to smog than other vehicles during normal road operation;

(4) Claims regarding air pollution other than smog, including, without limitation, that the vehicle will contribute less to other types of air pollution than other vehicles during normal road operation;

(5) Claims regarding global warming, including, without limitation, that the vehicle will contribute less to global warming than other vehicles during normal road operation;

(6) Claims regarding health, including, without limitation, that during normal road operation, the vehicle will contribute less than other vehicles to emissions-related health problems associated with air pollution including, without limitation, lung cancer, asthma, and other respiratory diseases;

(7) Claims that the vehicle received an award, certificate, or other recognition from any third party on the basis that, due in part to its emissions, it is "green," good for the environment, or less harmful to the environment than other vehicles; and

(8) Claims that the vehicle is "green," good for the environment, or less harmful to the environment than other vehicles.

M. "FTC" or "Commission" shall mean the Federal Trade Commission.

N. "Identify" or "the identity of" shall be construed to require identification of (a) natural persons by name, title, present business affiliation, present business address and telephone number, or if a present business affiliation or present business address is not known, the last known business and home addresses; and (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable.

O. "Merchantability Claims" include any of the following express or implied representations made with respect to a Covered Vehicle:

(1) the vehicle was imported legally;

(2) the vehicle complies with all federal, state, and local emissions regulations;

(3) the vehicle is certified or approved by the EPA, and will remain certified or approved during its reasonable lifespan;

(4) the vehicle is certified or approved by state regulatory agencies and any other public authority with jurisdiction over the vehicle, and will remain certified or approved during its reasonable lifespan;

(5) during the vehicle's reasonable lifespan, it will remain legal to operate in all parts of the United States without material changes to the vehicle;

(6) during the vehicle's reasonable lifespan, it will not be subject to recall;

(7) during the vehicle's reasonable lifespan, it will not be required to undergo repairs that adversely affect its fuel economy, power, torque, trunk space, resale value, or other salient attributes;

(8) during the vehicle's reasonable lifespan, its manufacturer will not recommend to owners or lessees that the vehicle undergo repairs that adversely affect its fuel economy, power, torque, trunk space, ease of ownership, resale value, or other salient attributes;

(9) during the vehicle's reasonable lifespan, it will not face restrictions on its ability to be registered, or re-registered, that are unusual relative to other similar vehicles;

(10) during the vehicle's reasonable lifespan, it will not face practical or legal restrictions on its sale or transfer that are unusual relative to other similar vehicles;

(11) during the vehicle's reasonable lifespan, it will not be subject to stigmatization, criticism, or negative media attention that is unusual relative to other similar vehicles; and

(12) the vehicle is designed and manufactured by a trustworthy company.

P. **"Relating to"** shall mean discussing, describing, reflecting, regarding, containing, analyzing, studying, reporting, commenting on, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

Q. A person is **"Responsible"** for Advertising or marketing strategy if he or she: (1) decided the goals or contents of the Advertising or marketing strategy; (2) approved the goals or contents of the Advertising or marketing strategy; or (3) substantially influenced the goals or contents of the Advertising or marketing strategy. For avoidance of doubt, a person is not Responsible for Advertising or marketing strategy if he or she has no material discretion or influence concerning the goals or contents of the Advertising or marketing strategy.

R. **"Volkswagen Affiliate"** means Volkswagen AG, Volkswagen Group of America, Inc., Volkswagen of America, Inc., VW Credit, Inc., Audi of America, Inc., Porsche Cars North America, Inc., Dr. Ing. H. c. Fr. Porsche AG, Porsche Automobil Holding SE, any of these entities' wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, affiliates, any entity of any sort that any Volkswagen Affiliate authorizes (or authorized) to sell or lease Covered Vehicles, any entity of any sort that any Volkswagen Affiliate authorizes (or authorized) to finance or help finance consumer purchases of Covered Vehicles, and all directors, officers, employees, agents, consultants, other persons working for or on behalf of any of the foregoing. For avoidance of doubt, "Volkswagen Affiliate" includes franchises and dealerships.

II. INSTRUCTIONS

A. **Sharing of Information:** The Commission often makes its files available to other civil and criminal federal, state, local, or foreign law enforcement agencies. The Commission may make information supplied by you available to such agencies where appropriate pursuant to the Federal Trade Commission Act and 16 C.F.R. § 4.11 (e) and (j). Information you provide may be used in any federal, state, or foreign civil or criminal proceeding by the Commission or other agencies.

B. **Meet and Confer:** You must contact Elisa Jillson ((202) 326-3001; ejillson@ftc.gov) as soon as possible to schedule a meeting (telephonic or in person) to be held within fourteen (14) days after receipt of this CID, or before the deadline for filing a petition to quash, whichever is first, in order to discuss compliance and to address and attempt to resolve all issues, including issues relating to protected status and the form and manner in which claims of protected status will be asserted, and the submission of ESI and other electronic productions as described in these Instructions. Pursuant to 16 C.F.R. § 2.7(k), you must make available personnel with the knowledge necessary for resolution of the issues relevant to compliance with

this CID, including but not limited to personnel with knowledge about your information or records management systems, relevant materials such as organizational charts, and samples of material required to be produced. If any issues relate to ESI, you must make available a person familiar with your ESI systems and methods of retrieval.

C. **Applicable Time Period:** Unless otherwise directed in the specifications, the applicable time period for the request shall be from January 1, 2008, until the date of full and complete compliance with this CID.

D. **Claims of Privilege:** If any material called for by this CID is withheld based on a claim of privilege, work product protection, or statutory exemption, or any similar claim (*see* 16 C.F.R. § 2.7(a)(4)), the claim must be asserted no later than the return date of this CID. In addition, pursuant to 16 C.F.R. § 2.11(a)(1), submit, together with the claim, a detailed log of the items withheld. The information in the log shall be of sufficient detail to enable the Commission staff to assess the validity of the claim for each document, including attachments, without disclosing the protected information. Submit the log in a searchable electronic format, and, for each document, including attachments, provide:

- (1) Document control number(s);
- (2) The full title (if the withheld material is a document) and the full file name (if the withheld material is in electronic form);
- (3) A description of the material withheld (for example, a letter, memorandum, or email), including any attachments;
- (4) The date the material was created;
- (5) The date the material was sent to each recipient (if different from the date the material was created);
- (6) The email addresses, if any, or other electronic contact information to the extent used in the document, from which and to which each document was sent;
- (7) The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all authors;
- (8) The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all recipients of the material;
- (9) The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all persons copied on the material;
- (10) The factual basis supporting the claim that the material is protected; and
- (11) Any other pertinent information necessary to support the assertion of protected status by operation of law.

16 C.F.R. § 2.11(a)(1)(i)-(xi).

In the log, identify by an asterisk each attorney who is an author, recipient, or person copied on the material. The titles, business addresses, email addresses, and relevant affiliations

of all authors, recipients, and persons copied on the material may be provided in a legend appended to the log. However, provide in the log the information required by Instruction D.6. 16 C.F.R. § 2.11(a)(2). The lead attorney or attorney responsible for supervising the review of the material and who made the determination to assert the claim of protected status must attest to the log. 16 C.F.R. § 2.11(a)(1).

If only some portion of any responsive material is privileged, all non-privileged portions of the material must be submitted. Otherwise, produce all responsive information and material without redaction. 16 C.F.R. § 2.11(c). The failure to provide information sufficient to support a claim of protected status may result in denial of the claim. 16 C.F.R. § 2.11(a)(1).

E. Document Retention: You shall retain all documentary materials used in the preparation of responses to the specifications of this CID. The Commission may require the submission of additional documents at a later time during this investigation. **Accordingly, you should suspend any routine procedures for document destruction and take other measures to prevent the destruction of documents that are in any way relevant to this investigation during its pendency, irrespective of whether you believe such documents are protected from discovery by privilege or otherwise.** See 15 U.S.C. § 50; see also 18 U.S.C. §§ 1505, 1519.

F. Petitions to Limit or Quash: Any petition to limit or quash this CID must be filed with the Secretary of the Commission no later than twenty (20) days after service of the CID, or, if the return date is less than twenty (20) days after service, prior to the return date. Such petition shall set forth all assertions of protected status or other factual and legal objections to the CID, including all appropriate arguments, affidavits, and other supporting documentation. 16 C.F.R. § 2.10(a)(1). Such petition shall not exceed 5,000 words as set forth in 16 C.F.R. § 2.10(a)(1) and must include the signed separate statement of counsel required by 16 C.F.R. § 2.10(a)(2). **The Commission will not consider petitions to quash or limit absent a pre-filing meet and confer session with Commission staff and, absent extraordinary circumstances, will consider only issues raised during the meet and confer process.** 16 C.F.R. § 2.7(k); see also § 2.11(b).

G. Modification of Specifications: If you believe that the scope of the required search or response for any specification can be narrowed consistent with the Commission's need for documents or information, you are encouraged to discuss such possible modifications, including any modifications of definitions and instructions, with Elisa Jillson at (202) 326-3001. All such modifications must be agreed to in writing by the Bureau Director, or a Deputy Bureau Director, Associate Director, Regional Director, or Assistant Regional Director. 16 C.F.R. § 2.7(l).

H. Certification: A responsible corporate officer of the Company shall certify that the response to this CID is complete. This certification shall be made in the form set out on the back of the CID form, or by a declaration under penalty of perjury as provided by 28 U.S.C. § 1746.

I. Scope of Search: This CID covers documents and information in Your possession or under Your actual or constructive custody or control including, but not limited to, documents and information in the possession, custody, or control of your attorneys, accountants, directors, officers, employees, and other agents and consultants, whether or not such documents and information were received from or disseminated to any person or entity.

J. Document Production: You shall produce the documentary material by making all responsive documents available for inspection and copying at your principal place of business. Alternatively, you may elect to send all responsive documents to **Crystal Ostrum, Investigator,**

Federal Trade Commission, 600 Pennsylvania Ave. NW, CC-9528, Washington, DC 20580. Because postal delivery to the Commission is subject to delay due to heightened security precautions, please use a courier service such as Federal Express or UPS. **Notice of your intended method of production must be given by telephone to Elisa Jillson at (202) 326-3001 at least five (5) days prior to the return date.**

K. Document Identification: Documents that may be responsive to more than one specification of this CID need not be submitted more than once; however, your response should indicate, for each document submitted, each specification to which the document is responsive. If any documents responsive to this CID have been previously supplied to the Commission, you may comply with this CID by identifying the document(s) previously provided and the date of submission. Documents should be produced in the order in which they appear in your files or as electronically stored and without being manipulated or otherwise rearranged; if documents are removed from their original folders, binders, covers, containers, or electronic source in order to be produced, then the documents shall be identified in a manner so as to clearly specify the folder, binder, cover, container, or electronic media or file paths from which such documents came. In addition, number all documents in your submission with a unique identifier, and indicate the total number of documents in your submission.

L. Production of Copies: Unless otherwise stated, legible photocopies (or electronically rendered images or digital copies of native electronic files) may be submitted in lieu of original documents, provided that the originals are retained in their state at the time of receipt of this CID. Further, copies of originals may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents; provided, however, that submission of a copy shall constitute a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any Commission proceeding or court of law; and provided further that you shall retain the original documents and produce them to Commission staff upon request. Copies of marketing materials and advertisements shall be produced in color, and copies of other materials shall be produced in color if necessary to interpret them or render them intelligible.

M. Electronic Submission of Documents: The following guidelines refer to the production of any ESI or digitally imaged hard copy documents. Before submitting any electronic production, you must confirm with the Commission counsel named above that the proposed formats and media types will be acceptable to the Commission. The FTC requests Concordance load-ready electronic productions, including DAT and OPT load files.

1. ESI: Documents created, utilized, or maintained in electronic format in the ordinary course of business should be delivered to the FTC as follows:

a. Spreadsheet and presentation programs, including but not limited to Microsoft Access, SQL, and other databases, as well as Microsoft Excel and PowerPoint files, must be produced in native format with extracted text and metadata. Data compilations in Excel spreadsheets, or in delimited text formats, must contain all underlying data un-redacted with all underlying formulas and algorithms intact. All database productions (including structured data document systems) must include a database schema that defines the tables, fields, relationships, views, indexes, packages, procedures, functions, queues, triggers, types, sequences, materialized views, synonyms, database links, directories, Java, XML schemas, and other elements, including the use of any report writers and custom user data interfaces;

b. All ESI other than those documents described in A.1 above must be provided in native electronic format with extracted text or Optical Character Recognition (OCR) and all related metadata, and with corresponding image renderings as converted to Group IV. 300

DPI, single-page Tagged Image File Format (TIFF) or as color JPEG images (where color is necessary to interpret the contents);

c. Each electronic file should be assigned a unique document identifier ("DocID") or Bates reference.

2. Hard Copy Documents: Documents stored in hard copy in the ordinary course of business should be submitted in an electronic format, subject to the following requirements:

a. The documents should be true, correct, and complete copies of the original documents as converted to TIFF (or color JPEG) images with corresponding document-level OCR text;

b. Each page shall be endorsed with a document identification number (which can be a Bates number or a document control number);

c. Logical document determination should be clearly rendered in the accompanying load file and should correspond to that of the original document; and

d. Documents shall be produced in color where necessary to interpret them or render them intelligible.

3. For each document electronically submitted to the FTC, include the following metadata fields in a standard ASCII delimited Concordance DAT file:

a. For electronic mail: begin Bates or unique document identification number ("DocID"), end Bates or DocID, mail folder path (location of email in personal folders, subfolders, deleted or sent items), custodian, from, to, cc, bcc, subject, date and time sent, date and time received, and complete attachment identification, including the Bates or DocID of the attachments (AttachIDs) delimited by a semicolon, MD5 or SHA Hash value, and link to native file;

b. For email attachments: begin Bates or DocID, end Bates or DocID, parent email ID (Bates or DocID), page count, custodian, source location/file path, file name, file extension, file size, author, date and time created, date and time modified, date and time printed, MD5 or SHA Hash value, and link to native file;

c. For loose electronic documents (as retrieved directly from network file stores, hard drives, etc.): begin Bates or DocID, end Bates or DocID, page count, custodian, source media, file path, filename, file extension, file size, author, date and time created, date and time modified, date and time printed, MD5 or SHA Hash value, and link to native file;

d. For imaged hard copy documents: begin Bates or DocID, end Bates or DocID, page count, source, and custodian; and where applicable, file folder name, binder name, attachment range, or other such references, as necessary to understand the context of the document as maintained in the ordinary course of business.

4. If you intend to utilize any de-duplication or email threading software or services when collecting or reviewing information that is stored in your computer systems or electronic storage media, or if your computer systems contain or utilize such software, you must contact the Commission counsel named above to determine whether and in what manner you may use such software or services when producing materials in response to this request.

5. Submit electronic productions as follows:
 - a. With passwords or other document-level encryption removed or otherwise provided to the FTC;
 - b. As uncompressed electronic volumes on size-appropriate, Windows-compatible, media;
 - c. All electronic media shall be scanned for and free of viruses; and
 - d. Data encryption tools may be employed to protect privileged or other personal or private information. The FTC accepts TrueCrypt, PGP, and SecureZip encrypted media. The passwords should be provided in advance of delivery, under separate cover. Alternate means of encryption should be discussed and approved by FTC counsel.
6. Please mark the exterior of all packages containing electronic media sent through the U.S. Postal Service or other delivery services as follows:

**MAGNETIC MEDIA – DO NOT X-RAY
MAY BE OPENED FOR POSTAL INSPECTION.**

7. All electronic files and images shall be accompanied by a production transmittal letter which includes:
 - a. A summary of the number of records and all underlying images, emails, and associated attachments, native files, and databases in the production; and
 - b. An index that identifies the corresponding consecutive document identification number(s) used to identify each person's documents and, if submitted in paper form, the box number containing such documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that the Commission counsel named above determines prior to submission that the machine-readable form would be in a format that allows the agency to use the computer files). The Commission counsel named above will provide a sample index upon request.

A Bureau of Consumer Protection Production Guide is available upon request from the Commission counsel named above. This guide provides detailed directions on how to fully comply with this instruction.

N. Sensitive Personally Identifiable Information: If any material called for by these requests contains sensitive personally identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production. If that information will not be redacted, contact us to discuss encrypting any electronic copies of such material with encryption software such as SecureZip and provide the encryption key in a separate communication. For purposes of these requests, sensitive personally identifiable information includes: an individual's Social Security number alone; or an individual's name or address or phone number in combination with one or more of the following: date of birth; Social Security number; driver's license number or other state identification number or a foreign country equivalent; passport number; financial account number; credit card number; or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an

individual.

O. **Information Identification:** Each specification and subspecification of this CID shall be answered separately and fully in writing under oath. All information submitted shall be clearly and precisely identified as to the specification(s) or subspecification(s) to which it is responsive.

P. **Certification of Records of Regularly Conducted Activity:** Attached is a Certification of Records of Regularly Conducted Activity, which may reduce the need to subpoena the Company to testify at future proceedings in order to establish the admissibility of documents produced in response to this CID. You are asked to execute this Certification and provide it with your response.

III. SPECIFICATIONS—DOCUMENT REQUESTS

(1) Representative samples of every unique Advertisement for Covered Vehicles that contain Environmentally Friendly Claims or Merchantability Claims, and Documents sufficient to establish when and where You disseminated each such Advertisement for Covered Vehicles.

(2) All Documents that substantiated, purported to substantiate, or You understood did substantiate, any Claim that Any Covered Vehicle is Environmentally Friendly.

(3) All Documents Relating To the presence of Environmentally Friendly Claims in Covered Vehicle Advertising, including without limitation all Documents Relating To the use of the word "CleanDiesel."

(4) All Documents Relating To sales and marketing strategy or methods for Covered Vehicles Relating To Environmentally Friendly Claims or Merchantability Claims, including without limitation sales materials, market research such as consumer perception surveys, salesperson instructions, sales or marketing presentations, salesperson coaching materials, sales guides, or scripts.

(5) All Documents Relating To (a) actual or potential investigations or testing of Defeat Devices or Covered Vehicle emissions; (b) statements, representations, or claims by Volkswagen Affiliates Relating To Covered Vehicle emissions; or (c) Communications after September 14, 2015, with any Volkswagen Affiliate or Volkswagen dealers' association Relating To Covered Vehicles.

(6) All Documents Relating To complaints, concerns or questions by anyone Relating To Environmentally Friendly Advertising Claims or Defeat Devices.

(7) All Documents Relating To any goodwill program or other effort to Communicate with Covered Vehicle owners or lessees after September 14, 2015, or to Communicate with the public concerning Covered Vehicles after September 14, 2015.

(8) All Documents Relating To any compensation, incentives, bonuses, repayment, or offsets any Volkswagen Affiliate has given to You, or promised to give to You, since September 14, 2015, Relating To Covered Vehicles.

(9) All Documents Relating To any compensation, incentives, bonuses, repayment, or offsets You or any Volkswagen Affiliate has given (or promised to give) to owners or lessees of Covered Vehicles You sold or leased, since September 14, 2015.

(10) All franchise agreements or other contracts that address the relationship between You and any Volkswagen Affiliate since January 1, 2008.

(11) All Documents Relating To Diesel Exhaust Fluid ("DEF"), AdBlue, AUS 32, urea solution, or any other fluid used in selective catalytic reduction (SCR) to reduce NOx emissions in Covered Vehicles, including without limitation service records for changing or refilling such fluids in Covered Vehicles, Communications about use or frequency of changing or refilling such fluids in Covered Vehicles, and purchase records for such fluids.

IV. SPECIFICATIONS—INTERROGATORIES

- (1) State the total number of Covered Vehicles you have (a) sold; or (b) leased.
- (2) State the name, address, email address and telephone number for each person who purchased a Covered Vehicle from You. For each person, state the vehicle model, vehicle year, vehicle trim, Vehicle Identification Number (VIN), the date of purchase, odometer reading on the date of purchase, and the purchase price.
- (3) State the name, address, email address and telephone number for each person who leased a Covered Vehicle from You. For each person, state the vehicle model, vehicle year, vehicle trim, Vehicle Identification Number (VIN), the dates of the lease contract, odometer reading on the date of the lease, lease terms, base price or agreed-upon value of the vehicle, residual value or purchase option price, contract money factor, net or adjusted capitalized cost used to calculate the monthly payment, monthly payment, monthly use or rental tax, and any balloon payment or end-of-lease payment.
- (4) Identify each unique Advertisement or other Document or object Relating To Environmentally Friendly Claims or Merchantability Claims for Covered Vehicles that any Volkswagen Affiliate provided to You, that You publicly disseminated or relied upon to make such claims.
- (5) Identify every person (whether employed by You, any Volkswagen Affiliate, or otherwise) Responsible for the marketing or sales of Covered Vehicles as Environmentally Friendly, or who substantively coordinated or consulted with You Relating To such marketing or sales.
- (6) Identify every person (whether employed by You, any Volkswagen Affiliate, or otherwise) Responsible for addressing complaints, concerns or questions by anyone Relating To Covered Vehicles.
- (7) Explain what compensation, incentives, bonuses, repayment, or offsets any Volkswagen Affiliate has given to You, or promised to give to You, since September 14, 2015. Relating To Covered Vehicles.
- (8) Explain what compensation, incentives, bonuses, repayment, or offsets You or any Volkswagen Affiliate has given (or promised to give) to owners or lessees of Covered Vehicles You sold or leased, since September 14, 2015.
- (9) State the total number of times since January 1, 2008, that You have changed or refilled DEF, AdBlue, AUS 32, urea solution, or any other fluid used in selective catalytic reduction (SCR) to reduce NOx emissions in Covered Vehicles.

CERTIFICATION OF RECORDS OF REGULARLY CONDUCTED ACTIVITY
Pursuant to 28 U.S.C. § 1746

1. I, _____, have personal knowledge of the facts set forth below and am competent to testify as follows:
2. I have authority to certify the authenticity of the records produced by _____ and attached hereto.
3. The documents produced and attached hereto by _____ are originals or true copies of records of regularly conducted activity that:
 - (a) Were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
 - (b) Were kept in the course of the regularly conducted activity of _____; and
 - (c) Were made by the regularly conducted activity as a regular practice of _____.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2015.

Signature

EXHIBIT 3



United States of America
FEDERAL TRADE COMMISSION
600 PENNSYLVANIA AVE. NW, CC-9528
WASHINGTON, DC 20580

James A. Kohm
Associate Director
Division of Enforcement
Bureau of Consumer Protection

December 28, 2015

VIA ELECTRONIC MAIL

Robert J. Curran, Esq.
Ryan, Swanson & Cleveland, PLLC
1201 Third Avenue, Suite 3400
Seattle, Washington 98101-3034
(206) 654-2232; Curran@ryanlaw.com

RE: CID Extension—Larson Automotive

Counsel,

We recognize that some confusion occurred. To avoid any possible prejudice to your client, and pursuant to 16 C.F.R. § 2.7(f), this correspondence extends the Civil Investigative Demand's ("CID's") return date by two (2) weeks. As we do with every CID, we will make a substantial effort to negotiate ways to reduce any possible burden through the meet and confer process. However, if you still contend a motion to quash is necessary, you have until January 14 to file it.

Should you have any questions, please contact Jonathan Cohen at (202) 326-2551, or Elisa Jillson at (202) 326-3001.

Very truly yours,

A handwritten signature in black ink, appearing to read "James A. Kohm".

James A. Kohm

CC: Jonathan Cohen (via electronic mail)
Amanda B. Kostner (via electronic mail)
Elisa Jillson (via electronic mail)
Sangjoon "Simon" Han (via electronic mail)