

FILED IN THE U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

OCT 24 2024

SEAN F. McAVOY, CLERK  
SPOKANE, WASHINGTON

1 Vanessa R. Waldref  
2 United States Attorney  
3 Eastern District of Washington  
4 Dan Fruchter  
5 Jacob E. Brooks  
6 Assistant United States Attorneys  
7 Gwendolyn Russell  
8 Special Assistant United States Attorney  
9 Post Office Box 1494  
10 Spokane, WA 99210-1494  
11 Telephone: (509) 353-2767

9 UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

2:24-CR-00057-TOR

12 Plaintiff,

PLEA AGREEMENT

13 vs.

14  
15 HARDWAY SOLUTIONS, LLC d/b/a  
16 HARDWAY PERFORMANCE,

17 Defendant.

18 Plaintiff, United States of America, by and through Vanessa R. Waldref, United  
19 States Attorney for the Eastern District of Washington and Dan Fruchter and Jacob E.  
20 Brooks, Assistant United States Attorneys, and Gwendolyn Russell, Special Assistant  
21 United States Attorney, and Defendant HARDWAY SOLUTIONS, LLC d/b/a  
22 HARDWAY PERFORMANCE (hereinafter "Defendant") and Defendant's counsel,  
23 Stewart D. Cables and Andrew M. Wagley, agree to the following Plea Agreement:

24 1. Guilty Pleas and Maximum Statutory Penalties:

25 Defendant agrees to plead guilty to Count 1 of the Indictment returned by the  
26 Grand Jury on April 17, 2024, charging Defendant with Conspiracy to Violate the Clean  
27

1 Air Act, in violation of 18 U.S.C. § 371, 42 U.S.C. § 7413(c)(2)(C), a Class D felony.

2 Defendant understands that the following potential penalties apply:

- 3 (a) not more than a 5-year term of probation;
- 4 (b) a fine not to exceed \$500,000;
- 5 (c) restitution; and
- 6 (d) a \$400 special penalty assessment.

7 2. The Court is Not a Party to the Agreement:

8 The Court is not a party to this Plea Agreement and may accept or reject it.

9 Defendant acknowledges that no promises of any type have been made to Defendant  
10 with respect to the sentence the Court will impose in this matter.

11 Defendant understands the following:

- 12 a. sentencing is a matter solely within the discretion of the Court;
- 13 b. the Court is under no obligation to accept any recommendations  
14 made by the United States or Defendant;
- 15 c. the Court will obtain an independent report and sentencing  
16 recommendation from the United States Probation Office;
- 17 d. the Court may exercise its discretion to impose any sentence it  
18 deems appropriate, up to the statutory maximum penalties;
- 19 e. the Court is required to consider the applicable range set forth in the  
20 United States Sentencing Guidelines, but may depart upward or  
21 downward under certain circumstances; and
- 22 f. the Court may reject recommendations made by the United States or  
23 Defendant, and that will not be a basis for Defendant to withdraw  
24 from this Plea Agreement or Defendant's guilty plea.
- 25
- 26
- 27
- 28

1 3. Defendant HARDWAY SOLUTIONS, LLC d/b/a HARDWAY  
2 PERFORMANCE Organization

3 Defendant HARDWAY SOLUTIONS, LLC d/b/a HARDWAY  
4 PERFORMANCE understands that this Plea Agreement is intended to bind  
5 HARDWAY SOLUTIONS, LLC d/b/a HARDWAY PERFORMANCE, and that if the  
6 Defendant changes names, reorganizes, merges, or otherwise ceases operations in its  
7 current form, the person or entity acquiring the assets or taking over the operation of  
8 Defendant's company shall take over the obligations of this Plea Agreement. The  
9 Defendant further agrees to provide the United States Attorney's Office for the Eastern  
10 District of Washington and the United States Probation Office for the Eastern District  
11 of Washington with immediate notice of any name change, business reorganization, sale  
12 or purchase of assets, divestiture of assets, or similar action impacting the operation of  
13 its business.

14 No name change, change in corporate or individual control, business  
15 reorganization, change in ownership, merger, change of legal status, sale or purchase of  
16 assets, or similar action shall alter the Defendant's responsibilities under this Plea  
17 Agreement. The Defendant shall not engage in any action to seek to avoid the  
18 obligations and conditions set forth in this Plea Agreement. This Plea Agreement,  
19 together with all of the obligations and terms thereof, shall inure to the benefit and shall  
20 bind assignees, subsidiaries, successors-in-interest, or transferees of the Defendant.

21 4. Waiver of Constitutional Rights:

22 Defendant understands that by entering these pleas of guilty, Defendant is  
23 knowingly and voluntarily waiving certain constitutional rights, including:

- 24 (a) The right to a jury trial;  
25 (b) The right to see, hear, and question the witnesses;  
26 (c) The right to remain silent at trial;  
27 (d) The right to testify at trial; and  
28 (e) The right to compel witnesses to testify.

1 While Defendant is waiving certain constitutional rights, Defendant understands  
2 he retains the right to be assisted through the sentencing and any direct appeal of the  
3 conviction and sentence by an attorney, who will be appointed at no cost if Defendant  
4 cannot afford to hire an attorney. Defendant understands and agrees that any defense  
5 motions currently pending before the Court are mooted by this Plea Agreement, and  
6 Defendant expressly waives Defendant's right to bring any additional pretrial motions.

7 5. Elements of the Offense:

8 The parties agree that, in order to convict Defendant of Conspiracy to Violate the  
9 Clean Air Act, in violation of 18 U.S.C. § 371, 42 U.S.C. § 7413(c)(2)(C), as charged  
10 in Count 1, the United States would have to prove beyond a reasonable doubt the  
11 following elements:

- 12 - First, between on or about August 2, 2017 and on or about November 30,  
13 2023, in the Eastern District of Washington and elsewhere, there was an  
14 agreement between at least two people to violate the Clean Air Act by  
15 tampering with or rendering inaccurate monitoring devices required by the  
16 Clean Air Act;
- 17 - Second, Defendant became a member of the conspiracy knowing of at least  
18 one of its objects and intending to help accomplish it; and
- 19 - Third, one of the members of the conspiracy performed at least one overt  
20 act.

21 6. Factual Basis and Statement of Facts:

22 The parties stipulate and agree that the United States could prove the following  
23 facts beyond a reasonable doubt at trial, and these facts constitute an adequate factual  
24 basis for Defendant's guilty pleas. This statement of facts does not preclude either party  
25 from presenting and arguing, for sentencing purposes, additional facts which are  
26 relevant to the guideline computation or sentencing, unless otherwise prohibited in this  
27 agreement.

### Defendant and Co-Defendants

1  
2 At all relevant times, Ryan Hugh Milliken was a resident of Florida, and  
3 conducted business through his company, Defendant Hardway Solutions, LLC d/b/a  
4 Hardway Performance (Hardway Performance), which had its principal place of  
5 business in Mary Esther, Florida. At all relevant times between August 2017 and  
6 November 2023, Pavel Ivanovich Turlak (Turlak) was a resident of Spokane,  
7 Washington, and operated the trucking businesses PT Express LLC, Pauls Trans LLC,  
8 and Spokane Truck Service LLC, each of which had their principal place of business in  
9 Spokane, Washington. Defendant Hardway Performance, acting through Ryan Hugh  
10 Milliken and others, provided automotive services for customers, including providing  
11 custom engine tuning software for diesel engine trucks, including for Turlak and his  
12 companies.

### The Clean Air Act and Required Pollution Controls and Monitoring Devices

13  
14 The Clean Air Act directs the United States Environmental Protection Agency  
15 (EPA) to issue regulations limiting the amount of pollutants that motor vehicles,  
16 including diesel vehicles, can emit. To meet these emission standards, vehicle  
17 manufacturers design and install certain hardware devices as components of an  
18 emissions control system to manage and treat engine exhaust. This reduces the levels  
19 of pollutants such as nitrogen oxides, particulate matter, carbon monoxide, and non-  
20 methane hydrocarbons that are emitted into the air from tailpipe exhaust and keeps those  
21 emissions within regulatory limits. For diesel engines, such emissions control devices  
22 include diesel particulate filters (“DPF”), exhaust gas recirculation (“EGR”) systems,  
23 diesel oxidation catalysts (“DOC”), and selective catalytic reduction (“SCR”) systems.  
24 These hardware emissions control devices are critical components of a diesel vehicle’s  
25 emissions control system and are essential to ensuring that the vehicle complies with  
26 the Clean Air Act’s emissions standards.

27 EPA regulations also require manufacturers to install on-board diagnostic  
28 (“OBD”) systems on vehicles and engines to ensure that emissions control systems



1 continue to operate properly. OBD systems must be capable of monitoring all emission-  
2 related engine systems or components, including the EGR system, the DOC, the DPF,  
3 and the SCR system.

4 The OBD system operates within a vehicle's engine control module ("ECM")  
5 (sometimes referred to as the engine or electronic control unit or "ECU"). The OBD is  
6 composed of software and sensors that monitor emissions-related engine systems and  
7 components for malfunctions that may increase emissions. If an emissions-related  
8 malfunction or problem occurs, the OBD system causes a malfunction indicator light  
9 ("MIL") to be illuminated on the vehicle's dashboard to alert the driver and a diagnostic  
10 trouble code ("DTC") to be stored in the OBD's memory. These functions facilitate the  
11 detection and diagnosis of a malfunction in the emissions control system. Removal,  
12 disconnection, or malfunction of certain powertrain components, including emissions  
13 control hardware, may cause the control system to limit the top speed of some vehicles  
14 to as low as five miles per hour (an effect commonly referred to as "limp mode" or  
15 "power reduced mode"), providing an incentive for the vehicle's operator to seek repairs  
16 and to prevent damage to other components.

17 OBD systems are monitoring devices or methods required to be maintained or  
18 followed under the Clean Air Act to ensure that both the emissions-monitoring  
19 computer software and the hardware emissions control devices of vehicles are  
20 functioning properly. Persons seeking to evade the Clean Air Act's pollution controls  
21 for heavy-duty diesel vehicles have developed methods of modifying or removing  
22 emissions control systems and rendering the OBDs inaccurate. These modifications  
23 may be undertaken to avoid repair and maintenance costs associated with emissions  
24 controls and to improve the horsepower, torque, fuel efficiency, or other characteristics  
25 of diesel engines. These unlawful modifications result in a dramatic increase in multiple  
26 pollutants being emitted by each vehicle.

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

1 control equipment, such as the DOC and SCR catalyst, and replace it with a section of  
2 hollow exhaust tubing sometimes referred to as a "straight pipe." These "straight pipes"  
3 funnel the vehicle's exhaust through the tailpipe, with no reduction in pollutants.  
4 Alternatively, the DPF, DOC, and SCR can be hollowed out by removing the  
5 operational internal contents (e.g., catalyst substrate), and then reconnected to the  
6 exhaust pipe. This gives the appearance that the components are still intact but  
7 eliminates their effective function. The EGR can be disabled through the installation  
8 of "block plates" that cover the EGR valve and prevent the recirculation of exhaust.  
9 Additionally, certain functions of emissions control components can be electronically  
10 disabled.

11 To prevent an OBD system from detecting that the emissions controls have been  
12 modified or removed, the ECM is reprogrammed to disable at least some of the OBD  
13 monitoring functions and to modify other engine functions related to the operation of  
14 emissions controls (e.g., turning off diesel exhaust fluid ("DEF") injection, turning off  
15 DPF regenerations, and remapping other parameters to account for the removed or  
16 disabled emissions controls). If an ECM is not reprogrammed after modification or  
17 removal of emissions control equipment, a properly functioning OBD will detect the  
18 malfunction or removal of the emissions control equipment, trigger a MIL alert, store a  
19 DTC and, in certain instances, cause the vehicle to go into limp mode. For example,  
20 DEF is injected into the SCR system to treat nitrogen oxides in the exhaust as the  
21 exhaust flows through the SCR catalyst. DEF is used up as the engine is operated, and  
22 if it is not refilled, the OBD system will notify the driver that DEF level is low. If not  
23 remedied, the OBD will cause the vehicle to go into limp mode.

24 The act of tampering with, disabling, or removing emissions-related software or  
25 hardware is sometimes referred to as "deletion" or "deleting." Reprogramming the  
26 ECM, including the OBD system, as part of the emissions control deletion can be  
27 referred to as "tuning" or "reflashing" the vehicle. One method used to prevent the OBD  
28 from detecting a malfunction in the emission control system involves connecting a

1 laptop computer to the vehicle's OBD through the OBD port and "flashing"  
2 (reprogramming) the OBD. Another common method involves installing a tune file on  
3 the OBD through a tuning device (sometimes referred to as a "tuner") that is connected  
4 to the OBD through the OBD port.

5 Reprogramming an OBD to prevent it from detecting the removal or disabling of  
6 emission control systems components constitutes tampering with and rendering  
7 inaccurate a monitoring device required under the Clean Air Act.

8 Defendants' Criminal Conspiracy to Violate the Clean Air Act

9 Beginning no later than August 2, 2017 and continuing until at least November  
10 30, 2023, Defendant Hardway Performance, acting through Ryan Hugh Milliken and  
11 others, created and supplied delete tune files to Turlak designed to illegally tamper with  
12 OBDs, which Turlak then loaded onto his own trucks and the trucks of co-conspirators  
13 who paid Turlak to install delete tune files onto their vehicles in order to illegally tamper  
14 with the OBD systems of the vehicles in violation of the Clean Air Act. Turlak paid  
15 Defendant for these delete tune files, which Defendant created for specific vehicles and  
16 vehicle identification number (VINs) at Turlak's request.

17 On January 10, 2020, the Environmental Appeals Board entered an  
18 administrative consent agreement between the United States Environmental Protection  
19 Agency and Ryan Hugh Milliken and his company, Defendant Hardway Performance.  
20 As part of the consent agreement, Ryan Hugh Milliken and Defendant Hardway  
21 Performance stipulated and admitted to manufacture and selling "tunes" designed to  
22 modify the programming on ECMs of diesel trucks. As a further part of the consent  
23 agreement, Ryan Hugh Milliken and Defendant Hardway Performance did not  
24 explicitly admit to having violated the law; however, both agreed to pay a civil penalty  
25 of \$45,000, which reflected a reduced penalty because Ryan Hugh Milliken and  
26 Defendant Hardway Performance "demonstrate[d] their inability to pay a higher civil  
27 penalty." Finally, Ryan Hugh Milliken, on his own behalf and on behalf of Defendant  
28 Hardway Performance, certified and promised as part of the consent agreement that  
Plea Agreement- 8 of 22



1 “they will not manufacture, sell, offer for sale, or install any Defeat Device that defeats,  
2 bypasses, or otherwise renders inoperative any emissions-related device or element of  
3 design on a motor vehicle or motor vehicle engine subject to regulation under Title II  
4 of the [Clean Air Act]...”

5 Both before and in violation of this consent agreement, Defendant Hardway  
6 Performance, acting through Ryan Hugh Milliken and others, continued to manufacture  
7 and sell defeat devices, to wit, software designed to defeat, bypass and tamper with  
8 OBDS, and to render them inaccurate and inoperative, to Turlak and others. Ryan Hugh  
9 Milliken and Defendant Hardway Performance provided Turlak dozens of delete tunes  
10 between August 2017 and November 2023. On average, Ryan Hugh Milliken and  
11 Defendant Hardway Performance charged Turlak approximately \$500 for each tune and  
12 related software necessary to install the tune.

13 For example, on or about February 13, 2019, Turlak emailed Defendant  
14 Hardway Performance’s general email account requesting to purchase “another tune  
15 and vin license. Its a (63) 2018 Ram 3500 Aisin. regular pickup. Vin  
16 #3C63R3GL5JG330936. Need it to be a stock deleted tune.” On or about that same  
17 day, an employee of Hardway Performance (Hardway Employee 1) emailed four tune  
18 files created by Ryan Hugh Milliken to Turlak, including a file named  
19 “STOCKDELETE\_PUAISIN\_V33.1\_75MPH\_0936.bbx.” Turlak used the delete  
20 tune file supplied by Ryan Hugh Milliken to disable emissions system hardware and  
21 tamper with and render inaccurate the OBD system on the 2018 RAM 3500, VIN #  
22 3C63R3GL5JG330936, registered to Turlak’s spouse.

23 On or about February 4, 2020, Turlak emailed a second employee of Hardway  
24 Performance (Hardway Employee 2), “I need to buy a stock delete tune please. For a  
25 2016 Ram 3500. Aisin Trans. Regular pickup. Vin#3C63RGL1GG198377.” That day,  
26 Hardway Employee 2 replied, “I will forward all this over to Ryan and get this added  
27 to your tab. I run cards on Mondays for tuning orders. Thanks.”  
28

1           Additionally, on or about March 17, 2020, only two months after Defendant  
2 Hardway Performance and Ryan Hugh Milliken entered into the consent agreement  
3 with EPA in which they promised to not engage in further violations of the Clean Air  
4 Act through tampering with required emissions controls and monitoring systems,  
5 Turlak emailed Hardway Employee 2 to place a tune order for a 2014 RAM with VIN  
6 # 3C6UR5PL9EG137565. The 2014 RAM with VIN # 3C6UR5PL9EG137565 was  
7 registered to a "customer" of Turlak who paid Turlak a fee in return for installing an  
8 illegal delete tune on the 2014 RAM vehicle in order to tamper with and render  
9 inaccurate the required monitoring devices. On or about March 19, 2020, Ryan Hugh  
10 Milliken emailed Turlak supplying the requested delete tune file,  
11 "3C6UR5PL9EG137565\_131867\_QUICKSETUP.bbx." On or about the following  
12 day, Turlak emailed Ryan Hugh Milliken to request alterations to the tune to suit his  
13 customer's request: "Hi Ryan, last tune I received from you is showing 0 on DEF gauge.  
14 My customer was told it will show full because your tunes usually show full def after a  
15 tune but this one isn't. Its important to him for it to show 100 on the DEF. I know it  
16 doesn't effect his performance. But please help me correct this." As discussed above,  
17 a DEF gauge measures the presence and quantity of diesel exhaust fluid used to control  
18 emissions, and a zero DEF reading suggests that a truck's emission control system  
19 and/or OBD is not functioning properly. On or about the same date, Ryan Hugh  
20 Milliken responded via email to Turlak: "Likely not worth the engineering time but I'll  
21 look into it. What is the vin and or what model year and trans type is your customers  
22 truck?" Turlak responded by email, providing the requested information. Thereafter,  
23 Ryan Hugh Milliken and Turlak continued to correspond regarding issues with the tune.  
24 On or about May 26, 2020, Turlak emailed Ryan Hugh Milliken: "[T]hank you for  
25 getting back to me with a updated tune but I tried the updated tune. I kept getting the  
26 code 0536. But oddly enough that issue got resolved by reformatting the device. But  
27 once downloaded onto the truck. Def gauge still shows 0. I double checked to make  
28

1 sure I installed the updated tune and everything.” On or about the following day, May  
2 27, 2020, Ryan Hugh Milliken replied via email:

3 Sir, respectfully, if the DEF gauge doesn't read full on that file, I don't care  
4 to fix it. Our business direction has changed since our dealings with that  
5 certain government agency and polishing products **I'm not supposed to**  
6 **even be selling** is nowhere near the top of my priority list. I don't have a  
7 better way to put it other than what I have to offer is what I have to offer,  
8 purposely there will be no further revisions, no attempts at making  
9 anything any better than what it is and no further R&D will go into street  
10 truck delete tuning. **Think of it like being a drug dealer and trying to**  
11 **make your street product better so you can sell more of it even though**  
12 **you just got out of prison for distribution.... Its exactly like that.** I  
13 understand you have done a lot of business with us and I appreciate that, I  
14 also understand if you choose to take your business elsewhere to those who  
15 are continuing to press on with product evolution, that's the natural  
16 evolution of what's happening here and completely acceptable. In the  
17 mean time as long as the truck is functional and what I've sold you is  
18 functioning as intended than my obligations are satisfied. Thank you for  
19 your understanding. (Emphasis added).

20 Ryan Hugh Milliken copied Hardway Employee 2 and a third employee of Hardway  
21 Performance (Hardway Employee 3) on this email reply to Turlak. On or about the  
22 same date, May 27, 2020, Turlak responded to Ryan Hugh Milliken via email: “I  
23 completely agree with you about the def showing 0. And If it was my truck I could care  
24 less. BUT this is a customer. For him its very important. He specifically asked to make  
25 his truck look and sound stock. He asked about his def gauge prior to dropping off his  
26 truck and i told him it would be showing 100. When everything was achieved besides  
27 the def gauge. He wasn't happy. So all I'm trying to do is hold up my word that his def  
28 gauge will be showing 100.” Between March 17, 2020 and May 27, 2020, Turlak used  
the delete tune file supplied by Ryan Hugh Milliken to tamper with the OBD system on  
the 2014 RAM, VIN # 3C6UR5PL9EG137565, belonging to the customer who paid  
Turlak a fee in return for Turlak deleting and tuning the required monitoring devices  
using the delete tune file created and supplied by Ryan Hugh Milliken.

1 During the same period, on or about March 20, 2020, Turlak emailed Ryan Hugh  
2 Milliken to ask about tuning for newer 2019 vehicles, writing, "Ryan I was wondering  
3 if the 5th gen tunes are rolling well? If so how are the HO engines with lower  
4 compression working out as far as tuning. I've tried 2 companies seems like their tunes  
5 are fairly raw. Just getting a little tired of raw tunes. [Hardway Employee 2] said you  
6 started tuning the 19s so hoping you got them figured out. What are you seeing for mpg  
7 improvements and power gains? Also hows the aisin reacting to your tunes. Both other  
8 companies made the trans do weird stuff. Thank you for your time." On or about March  
9 23, 2020, Ryan Hugh Milliken replied: "The 2019's are a lot like the 13-18 trucks as  
10 far as tuning goes so, if you like the way those run from us, that's how the new ones run  
11 too. Until EFI offers it thru their software, we don't have any CSP or SOTF for them,  
12 not that I use that on any of my trucks anyway but for some reason its important to some  
13 people." The following day, Turlak replied to the email chain, "What can you do price  
14 wise for a stock deleted tune once I test it out, I would like to test the csp files once they  
15 are available. If I like the stock deleted file I'll start using them in my other 19s. But the  
16 test will be for my personal truck. 19 ram 3500 aisin trans. Regular pickup. Thank you."

17 On or about July 22, 2020, Turlak emailed Ryan Hugh Milliken to request a  
18 "stock deleted" tune for a 2015 RAM 3500 with VIN 3C63R3ML8FG512237. On or  
19 about July 30, 2020, Ryan Hugh Milliken emailed Turlak the requested delete tune file,  
20 "STOCKD\_PUAISIN\_V33.1\_3C63R3ML8FG512237.ctz." Ryan Hugh Milliken cc'd  
21 Hardway Employee 2 and a fourth employee of Hardway Performance (Hardway  
22 Employee 4) on the email providing the delete tune file. That day, Turlak emailed Ryan  
23 Hugh Milliken to report issues with the tune file, writing: "Thank you but I get 0532. I  
24 double checked that I'm using the right controller. Restarted both devices, still no luck.  
25 I remember having this issue couple months ago and [Hardway Employee 2] formating  
26 it to bbx some how fixed it. Idk how but thats how I got around it that time. Could you  
27 please help. Thank you kindly." On or about July 31, 2020, Turlak emailed Hardway  
28 Employee 2, writing " THANK YOU FOR HELPING OUT. HERE IS THE TUNE  
Plea Agreement- 12 of 22

1 THATS THROWING THE CODE 0532.” Turlak attached the tune file,  
2 “STOCKD\_PUAISIN\_V33.1\_3C63R3ML8FG512237.ctz.” That day, Hardway  
3 Employee 2 emailed Turlak a new delete tune file in the “.bbx” format,  
4 “STOCKD\_PUAISIN\_V33.1\_3C63R3ML8FG512237.bbx.” Hardway Employee 2  
5 wrote “Not sure if this will fix your issue... But its worth a shot I suppose. If this doesn’t  
6 work, email Ryan back in the same chain as you got the tune from and he can look into  
7 it.” Later that day, Turlak replied to Hardway Employee 2 by email, “Bbx tune file did  
8 the trick. Thank you kindly.” Later that day, Turlak again emailed Hardway Employee  
9 2 about the tune file, writing: “[I]t did the trick, thank you. One thing I’m fighting with  
10 it code p2495. I thought with the tune all egr related codes should be shut off. Any  
11 ideas?”

12 Additionally, on or about August 14, 2020, Turlak emailed Ryan Hugh Milliken  
13 to request a delete tune: “I would like to order a stock delete tune for a 2019 Ram 3500  
14 regular truck. Aisin Trans. Could you please get me a vin license as well. Vin  
15 #3C63R3GL5KG682884. Esn# 59274017.” On or about August 17, 2020, Turlak  
16 placed an order with Hardway Performance for a “stock delete file” for a “regular 2019  
17 Ram with aisin. Stock truck with 4 inch straight pipe” and VIN #  
18 3C63R3GL5KG682884. On or about August 21, 2020, Ryan Hugh Milliken emailed  
19 Turlak the requested delete tune file,  
20 “19PUAisin\_QUICKSETUP\_3C63R3GL5KG682884.bbx”. On or about that same  
21 date, Turlak used the delete tune file supplied by Ryan Hugh Milliken to disable  
22 emissions system hardware and tamper with and render inaccurate the OBD system on  
23 the 2019 RAM 3500, VIN # 3C63R3GL5KG682884, registered to Turlak’s spouse. On  
24 or about that same date, Turlak responded to Ryan Hugh Milliken’s email “Got the tune  
25 installed. Engine pulls good runs good. Can’t set cruise control. I’ll attach a picture.  
26 Nothing wrong with the truck. Cruise control worked great right before the tune. I didnt  
27 [sic] even do a physical delete on the truck. Just wanted to see how the tune will work  
28 on it. No cruise control. Nothing was unplugged yet.”



1 Moreover, on November 27, 2020, Turlak emailed Ryan Hugh Milliken  
 2 requesting "three stock delete tunes limited to 70 mph." Turlak provided the model and  
 3 vehicle identification number ("VIN") for three vehicles, including a 2017 Ram 3500,  
 4 VIN# 3C63RRJL0HG719053. Turlak directed Ryan Hugh Milliken to "Go ahead and  
 5 charge my credit card you have on file." On December 1, 2020, Ryan Hugh Milliken  
 6 emailed Turlak as follows: "See attached max vin slot code as well as 3 stockD files  
 7 limited at 70mph for the vin's you listed." Attached to the email were three files,  
 8 including a file named  
 9 "3C63RRJL0HG719053\_STOCKD\_PUASIN\_V33.1\_70MPH.ctz", intended to be  
 10 used to tamper with the OBD systems of the three vehicles. Ryan Hugh Milliken cc'd  
 11 Hardway Employee 2 on this email providing the tune files to Turlak. Turlak used the  
 12 tune file supplied by Ryan Hugh Milliken to disable emissions system hardware and  
 13 tamper with and render inaccurate the OBD system on the 2017 RAM, VIN #  
 14 3C63RRJL0HG719053, registered to Turlak.

15 Additionally, on or about March 25, 2021, Turlak emailed Ryan Hugh Milliken  
 16 stating, "I would like to order a stock D[delete tune] for a 2019 Ram 3500. Regular  
 17 pickup. Aisin trans. Stock D. Limit the speed to 70mph please. Vin#  
 18 3C63R3GL9KG542515." On or about March 26, 2021, Ryan Hugh Milliken responded  
 19 via email: "I'll fill the PO for that 2019 but I dont want to do anymore, its a platform I  
 20 have no interest in supporting in the same manner as we do the older trucks because,  
 21 well you know why." Ryan Hugh Milliken cc'd Hardway Employee 2 on this response  
 22 email. On or about March 31, 2021, Ryan Hugh Milliken emailed Turlak: "See attached  
 23 file for 19 PU Aisin, please don't consider us for any more files on the 19+ platform. I  
 24 might work on some stuff in the future but as of right now I dont plan on supporting the  
 25 platform like we do the older ones, this attached file should get you by...." Ryan Hugh  
 26 Milliken attached a file to the email named  
 27 "1920PUASIN\_SYM\_CSP\_V8\_3C63R3GL9KG542515.ctz," which was a delete  
 28 tune file that Ryan Hugh Milliken created and supplied to Turlak for the purpose of

Plea Agreement- 14 of 22

1 tampering with and rendering inaccurate the OBD system on the 2019 Ram 3500 with  
2 VIN #3C63R3GL9KG542515, registered to Turlak.

3 Additionally, on or about October 31, 2022, Turlak emailed Ryan Hugh Milliken  
4 and requested a tune “Stockd[elete]” tune for a 2015 Ram 2500 with VIN#  
5 3C6UR5NLXFG611530. That day, Ryan Hugh Milliken emailed Turlak the requested  
6 delete tune file, “PU68\_170PSI\_V33.1\_3C6UR5NLXFG611530.ctz,” which was a  
7 delete tune file that Ryan Hugh Milliken created and supplied to Turlak for the purpose  
8 of tampering with and rendering inaccurate the OBD system on the vehicle. Ryan Hugh  
9 Milliken cc’d a fifth Hardway Performance employee (Hardway Employee 5), on the  
10 email providing the delete tune file.

11 Additionally, on or about April 12, 2023, Turlak emailed Ryan Hugh Milliken to  
12 request a tune file: “I got a 2020 Ram 3500. Aisin trans. regular pickup. Needs a s[tock]  
13 d[elete]. Vin 3C63R3GL5LG272328.” On or about April 13, 2023, Ryan Hugh  
14 Milliken responded by email to Turlak, attaching the file  
15 “SD\_20Aisin\_V10\_3C63R3GL5LG272328.ctz.” This file was a delete tune file  
16 created by Ryan Hugh Milliken for the purpose of disabling and rendering inaccurate  
17 the OBD and required monitoring device for the vehicle specified by Turlak. Turlak  
18 used the delete tune file supplied by Ryan Hugh Milliken to disable emissions system  
19 hardware and to tamper with and render inaccurate the OBD system on the 2020 RAM  
20 3500, VIN #3C63R3GL5LG272328, registered to Turlak’s company Pauls Trans, LLC.

21 On November 30, 2023, agents with EPA’s Criminal Investigation Division  
22 executed a search warrant at Turlak’s business locations at 4207 E Rowan Ave.,  
23 Spokane, Washington 99217 and 4219 E Rowan Ave., Spokane, Washington 99217, in  
24 the Eastern District of Washington. EPA’s National Enforcement Investigations Center  
25 (“EPA-NEIC”) provided field technical inspection of vehicles located on the properties  
26 with remote assistance from EPA contractor Eastern Research Group, Inc. EPA-NEIC  
27 performed physical inspections and digital scans of the OBD systems on eight vehicles  
28 located on the properties. EPA-NEIC observed disabling of the emissions control

1 hardware components and illegal tampering with the OBD systems required by the  
 2 Clean Air Act on seven of the eight vehicles. Relevant here, EPA-NEIC observed this  
 3 conduct on the following five vehicles, each using a delete tune file created and supplied  
 4 by Defendant Hardway Performance, acting through Ryan Hugh Milliken and others,  
 5 to Turlak:

6 NEIC Veh. No.	VIN	Vehicle Manufacturer, Year, Make	Digital Evidence of OBD tampering?	Visual Inspection
7 1	3C63RRJL0HG719053	2017 Fiat Chrysler Automobiles US LLC (FCA) RAM 3500	Yes	Discreet EGR block plates observed
8 3	3C63R3GL5JG330936	2018 FCA RAM 3500	Yes	Discreet EGR block plates observed
9 4	3C63R3GL9KG542515	2019 FCA RAM 3500	Yes	Discreet EGR block plates observed
10 5	3C63R3GL5LG272328	2020 FCA RAM 3500	Yes	Discreet EGR block plates observed
11 8	3C63R3GL5KG682884	2019 FCA RAM 3500	Yes	Discreet EGR block plates observed

12 Defendant admits that between August 2, 2017 and November 30, 2023, in the  
 13 Eastern District of Washington and elsewhere, Defendant Hardway Performance and  
 14 Ryan Hugh Milliken, together with Turlak, Turlak's companies, Turlak's customers,  
 15 and others, conspired and agreed to violate the Clean Air Act by tampering with and  
 16 rendering inoperable required monitoring devices and methods, and that, in furtherance  
 17 of that conspiracy, Defendant Hardway Performance, Ryan Hugh Milliken, Turlak, and  
 18 their conspirators committed overt acts, including the above.

19 7. The United States Agrees:

20 (a) To Dismiss Counts:

21 At the time of sentencing, the United States agrees to move to dismiss as to  
 22 Defendant Counts 2 through 4 and Count 6 of the Indictment, which charge Tampering  
 23 with Clean Air Act Monitoring Device, in violation of 42 U.S.C. § 7413(c)(2)(C), 18  
 24 U.S.C. § 2.

1                   (b) Not to File Additional Charges:

2           The United States Attorney's Office for the Eastern District of Washington  
3 agrees not to bring any additional charges against Defendant based upon information in  
4 its possession at the time of this Plea Agreement and arising out of Defendant's conduct  
5 involving illegal activity charged in the Indictment, unless Defendant breaches this Plea  
6 Agreement any time before sentencing.

7           8. Statutory Authority:

8           Defendant understands and acknowledges that the United States Sentencing  
9 Guidelines (hereinafter "Sentencing Guidelines" or "USSG") are applicable to this case  
10 and that the Court will determine Defendant's applicable sentencing guideline range at  
11 the time of sentencing. Defendant further understands that the Court, after consultation  
12 and consideration of the Sentencing Guidelines, must impose a sentence that is  
13 reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

14           Defendant understands and acknowledges that the Sentencing Guidelines,  
15 including Chapter Eight that provides guidance for the sentencing of corporate  
16 defendants, will be considered by the court except that pursuant to USSG §§ 8C2.1 and  
17 8C2.10, the Guidelines that pertain to the sentencing of organizations do not determine  
18 the fine range in cases involving environmental crimes. Instead, the fine is to be  
19 determined under 18 U.S.C. §§ 3553 and 3572. All other sections of Chapter Eight of  
20 the Sentencing Guidelines that are applicable to corporate defendants are applicable to  
21 this case, including provisions for probation.

22           9. Criminal Fine:

23           The parties are free to make whatever recommendation concerning the  
24 imposition of a criminal fine that they believe is appropriate. Defendant  
25 acknowledges that the Court's decision regarding a fine is final and non-appealable;  
26 that is, even if Defendant is unhappy with a fine ordered by the Court, that will not be  
27 a basis for Defendant to withdrawal from this guilty plea, or appeal Defendant's  
28 conviction, sentence, or fine.

1           10.   Restitution and Forfeiture:

2           The parties agree restitution and forfeiture are not applicable here.

3           11.   Probation:

4           The parties agree to recommend that the Court impose a 5-year term of  
5 probation. *See* 18 U.S.C. § 3561(c)(1) and USSG §§ 8D1.1 and 8D1.2. Additionally,  
6 the parties agree that the terms of probation or supervised release shall include the  
7 following special conditions, in addition to the Court's standard conditions:

8                   A.   No Further Violations: The Defendant will commit no further  
9                   violations of the Clean Air Act, or other federal, state, or local law,  
10                   and he and his business shall conduct all operations in accordance  
11                   with EPA regulations and with other federal, state, and local  
12                   environmental regulations.

13                   B.   Environmental Compliance: Defendant Hardway Performance  
14                   shall follow the compliance program attached to this Plea Offer.

15           The parties are free to advocate for any additional special conditions they believe are  
16 appropriate.

17           12.   Mandatory Special Penalty Assessment:

18           Defendant agrees to pay the \$400 mandatory special penalty assessment to the  
19 Clerk of Court for the Eastern District of Washington. *See* 18 U.S.C. § 3013.

20           13.   Additional Violations of Law Can Void Plea Agreement:

21           The parties agree that the United States may at its option and upon written  
22 notice to Defendant, withdraw from this Plea Agreement or modify its  
23 recommendation for sentence if, before sentencing, Defendant is charged or convicted  
24 of any criminal offense whatsoever.

25           14.   Waiver of Appeal

26           In return for the concessions that the United States has made in this Plea  
27 Agreement, Defendant agrees to waive Defendant's right to appeal Defendant's  
28 conviction and sentence.



1 Defendant expressly waives Defendant's right to appeal any fine, term of  
2 probation, or restitution order imposed by the Court.

3 Defendant expressly waives the right to file any post-conviction motion  
4 attacking Defendant's conviction and sentence, including a motion pursuant to 28  
5 U.S.C. § 2255, except one based on ineffective assistance of counsel arising from  
6 information not now known by Defendant and which, in the exercise of due diligence,  
7 Defendant could not know by the time the Court imposes sentence.

8 Nothing in this Plea Agreement shall preclude the United States from opposing  
9 any post-conviction motion for a reduction of sentence or other attack upon the  
10 conviction or sentence, including, but not limited to, writ of habeas corpus  
11 proceedings brought pursuant to 28 U.S.C. § 2255.

12 15. Withdrawal or Vacatur of Defendant's Plea

13 Should Defendant successfully move to withdraw from this Plea Agreement or  
14 should Defendant's conviction be set aside, vacated, reversed, or dismissed under any  
15 circumstance, then:

- 16 a. The United States' obligations under this Plea Agreement shall  
17 become null and void;
- 18 b. the United States may prosecute Defendant on all available  
19 charges;
- 20 c. The United States may reinstate any counts that have been  
21 dismissed, have been superseded by the filing of another charging  
22 instrument, or were not charged because of this Plea Agreement;  
23 and
- 24 d. the United States may file any new charges that would otherwise  
25 be barred by this Plea Agreement.

26 The decision to pursue any or all of these options is solely in the discretion of  
27 the United States Attorney's Office.

1 Defendant agrees to waive any objections, motions, and/or defenses Defendant  
2 might have to the United States' decisions to seek, reinstate, or reinstate charges if a  
3 count of conviction is withdrawn, set aside, vacated, reversed, or dismissed, including  
4 any claim that the United States has violated Double Jeopardy.

5 Defendant agrees not to raise any objections based on the passage of time,  
6 including but not limited to, alleged violations of any statutes of limitation or any  
7 objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth  
8 Amendment.

9 16. Waiver of Attorney Fees and Costs:

10 Defendant agrees to waive all rights Defendant may have under the "Hyde  
11 Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), to recover attorneys' fees or  
12 other litigation expenses in connection with the investigation and prosecution of all  
13 charges in the above-captioned matter and of any related allegations (including, without  
14 limitation, any charges to be dismissed pursuant to this Plea Agreement or any charges  
15 previously dismissed or not brought as a result of this Plea Agreement).

16 17. Owner Approval:

17 The Defendant represents, and will state to the Court on the record, that its  
18 owners, directors, and/or duly authorized corporate officers authorize Defendant to  
19 plead guilty to the Indictment in this case, and to enter into and comply with all the  
20 provisions of this Plea Agreement.

21 18. Integration Clause:

22 The parties acknowledge that this document constitutes the entire Plea  
23 Agreement between the parties, and no other promises, agreements, or conditions exist  
24 between the parties concerning this case's resolution. This Plea Agreement is binding  
25 only upon the United States Attorney's Office for the Eastern District of Washington,  
26 and cannot bind other federal, state, or local authorities. The parties agree that this  
27 agreement cannot be modified except in writing that is signed by the United States and  
28 Defendant.

Approval and Signature

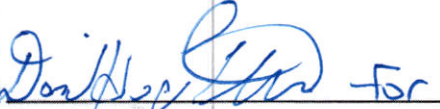
1  
2 Agreed and submitted on behalf of the United States Attorney's Office for the  
3 Eastern District of Washington.

4 Vanessa R. Waldref  
5 United States Attorney

6 

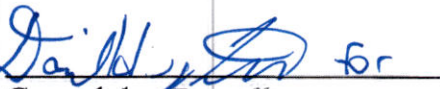
7 Dan Fruchter  
8 Assistant United States Attorney

10/29/24  
Date

9  for

10 Jacob E. Brooks  
11 Assistant United States Attorney

10/24/24  
Date

12  for


13 Gwendolyn Russell  
14 Special Assistant United States Attorney

10/24/2024  
Date

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

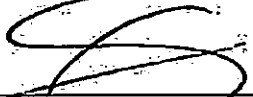
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I have read this Plea Agreement and have carefully reviewed and discussed every part of the agreements with my attorney. I understand and voluntarily enter into the Plea Agreement. Furthermore, I have consulted with my attorney about my rights, I understand those rights, and I am satisfied with the representation of my attorney in this case. No other promise or inducements have been made to me, other than those contained in this Plea Agreement and no one has threatened or forced me in any way to enter into this Plea Agreement. I am agreeing to plead guilty because I am guilty.


  
\_\_\_\_\_  
Ryan Hugh Milliken  
Corporate Representative for  
Hardway Solutions, LLC

10/21/2024  
Date

I have read the Plea Agreement and have discussed the contents of the agreement with my client. The Plea Agreement accurately and completely sets forth the entirety of the agreement between the parties. I concur in my client's decision to plead guilty as set forth in the Plea Agreement. There is no legal reason why the Court should not accept Defendant's plea of guilty.

  
\_\_\_\_\_  
Stewart D. Cables  
Attorney for Defendant

10-21-2024  
Date

  
\_\_\_\_\_  
Andrew M. Wagley  
Attorney for Defendant

10/21/24  
Date

ATTACHMENT A

**COMPLIANCE PROGRAM**

Hardway Solutions, LLC d/b/a Hardway Performance, and its subsidiaries or affiliates (“the defendant”), through its authorized representative, agrees to the following monitoring and compliance measures during the term of Probation:

**Definitions:**

- a. “Vehicle” means any (1) “motor vehicle” as defined under the Clean Air Act, 42 U.S.C. § 7550(2), which includes any self-propelled truck, semi-truck, car, van, camper, bus, or any other vehicle used to transport persons or property on streets or highways; and (2) “nonroad vehicle” as defined under the Clean Air Act, 42 U.S.C. § 7550(11), which includes any engine-powered vehicle such as construction, agricultural, or recreational equipment that is not designed for use on streets or highways.
- b. “Vehicle tampering” means any steps taken to remove, render inoperable, override, modify, or alter any component of any vehicle’s emissions control system, including but not limited to the selective catalytic reduction (SCR), exhaust gas recirculation (EGR), periodic trap oxidizer (PTOX), diesel particulate filter (DPF), diesel oxidation catalyst (DOC), or engine control module (ECM), or the onboard diagnostic (OBD) system.
- c. “Defeat device” includes, but is not limited to, an “EGR delete,” “DPF delete,” “delete kit,” “upgrade kit,” “conversion kit,” “tuner,” “tune,” “programmer,” “block plate,” “straight pipe,” or any other device designed to override, modify, alter, or allow the removal of any component of a vehicle’s emissions control system.
- d. “Tampered vehicle” means any vehicle that has been modified pursuant to “vehicle tampering.”

**Terms:**

1. The defendant agrees not to manufacture or sell, or offer to sell, or install any defeat device.
2. The defendant agrees not to engage in, or aid and abet, or conspire to, or cause others to engage in, vehicle tampering.
3. The defendant agrees to immediately cease operating any tampered vehicles it owns or operates (or that a subsidiary or affiliate owns or operates). The defendant will not sell or otherwise transfer any such vehicle intact or in a condition that allows the vehicle to be driven, unless it is restored. Within six months of Court approval of the Plea Agreement, the defendant agrees to



restore, scrap or recycle any tampered vehicle it owns or operates. If any other vehicles are later identified as being tampered vehicles that are owned or operated by the defendant or its subsidiaries or affiliates, the defendant agrees to immediately cease operating and to restore, scrap or recycle those vehicles.

- a. For any tampered vehicles that are restored to stock, the defendant shall obtain and present a certification (attached) from a mechanic or dealership licensed by the vehicle's Original Equipment Manufacturer (OEM) that the vehicle has been restored to its certified configuration.
  - b. For any tampered vehicles that are not restored to stock, the "long block" may be removed and sold for scrap, parts, or recycling, so long as the intake and exhaust manifolds are removed. The manifolds must be sold for scrap or otherwise disposed of. Any other emission control components that have been tampered with must be sold for scrap or otherwise disposed of. The remainder of the vehicle can be sold for scrap, parts, or recycling.
4. For any tampered vehicle, the defendant agrees not to work on, repair, or service (1) the OBD system or (2) any hardware relating to the emissions control system, including the SCR, EGR, PTOX, DPF, and DOC, except for the purpose of restoring the emissions control system on the tampered vehicle to its certified configuration, that is, restoring it to stock.
  5. The defendant agrees to permit unrestricted entry to federal, state, and local officials to inspect premises, including hard copy and electronic documents, at any time and without advance notice, for violations of the Clean Air Act, 42 U.S.C. §§ 7413(c)(2) and 7522(c)(3).
  6. The defendant agrees to submit to the U.S. Attorney's Office an annual report detailing the company's compliance measures and including a certification signed by a responsible corporate officer confirming, if true, that the company has not knowingly engaged in any violations of the Clean Air Act, 42 U.S.C. §§ 7413(c)(2) and 7522(c)(3). The first certification shall be submitted one year from the date on which the Information is filed and shall be filed annually on that date until the Term of the Agreement is concluded.