



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

SENT VIA EMAIL
RETURN RECEIPT REQUESTED

Mr. John Koerner
Healey Brothers Ford, LLC
420 Fishkill Ave.
Beacon, NY 12508

June 6, 2022
NEF-107EW
AQ22-002

Dear Mr. Koerner:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened an Audit Query (AQ22-002) to investigate information suggesting that Healey Brothers Ford, LLC (Healey Brothers Ford) delivered at least one new Ford Motor Company (Ford) vehicle to a customer without having all required recall repairs performed on that vehicle. Specifically, the information suggests repairs required under NHTSA recall number 21V-625 (also referenced as Ford campaign 21S38) were not made prior to delivery of that new vehicle to its purchaser. This recall concerns certain model year 2021 Escape, Lincoln Corsair, and 2021-2022 Bronco Sport vehicles. Affected vehicles have a fuel delivery module that may leak inside the fuel tank, causing low fuel pressure which could result in an engine stall.

A dealer's delivery of a new vehicle with a NHTSA recall outstanding is a serious matter and a violation of Federal law to which significant civil penalties could apply. *See* 49 U.S.C. §§ 30112(a), 30120(i), and 30165. This office has opened an audit query (AQ) investigation and is sending this information request in order to determine whether Healey Brothers Ford has complied with the prohibition on delivery of unremedied new vehicles subject to NHTSA recalls.

Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Ford:** Ford Motor Company, all of their past and present officers and employees, whether assigned to their principal offices or any of their field or other locations, including all of their divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the

control of Ford (including all business units and persons previously referred to), who are or were involved in any way as of May 1, 2017, with recalls of Ford vehicles.

- **Healey Brothers Ford:** Healey Brothers Ford, LLC, including all of its divisions, subsidiaries and affiliated enterprises and its employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Healey Brothers Ford, LLC (including all business units and persons previously referred to).
- **Document:** “Document(s)” is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by Healey Brothers Ford, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, “document(s)” also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by Healey Brothers Ford or not. If a document is not in the English language, provide both the original document and an English translation of the document.
- **Other Terms:** To the extent that they are used in these information requests, the terms “claim,” “consumer complaint,” “dealer field report,” “field report,” “fire,” “fleet,” “good will,” “make,” “model,” “model year,” “notice,” “property damage,” “property damage

claim,” “rollover,” “type,” “warranty,” “warranty adjustment,” and “warranty claim,” whether used in singular or in plural form, have the same meaning as found in 49 C.F.R. § 579.4.

In order for my staff to evaluate the allegation, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. When documents are produced, the documents shall be produced in an identified, organized manner that corresponds with the organization of this information request letter (including all individual requests and subparts). When documents are produced and the documents would not, standing alone, be self-explanatory, the production of documents shall be supplemented and accompanied by explanation.

Please repeat the applicable request verbatim above each response. After Healey Brothers Ford’s response to each request, identify the source of the information and indicate the last date the information was gathered.

1. Identify, by stating the model, model year, and vehicle identification number (“VIN”), of each and every new vehicle subject to NHTSA recalls of which Healey Brothers Ford had possession from May 1, 2017 to present:
 - a) The date on which Healey Brothers Ford took possession of the vehicle;
 - b) The disposition of the vehicle (e.g., sold, leased, still in inventory, etc.);
 - c) The date of the disposition you identified in (b);
 - d) The date on which the vehicle was delivered by Healey Brothers Ford under the sale or lease agreement (e.g., delivery date to purchaser or lessee);
 - e) Whether the recall remedy was performed on the vehicle and its associated NHTSA recall number. “Recall remedy” refers to the inspection and repair procedures Ford instructed Healey Brothers Ford to perform under the recall;
 - f) The date on which the recall remedy was performed on the vehicle;
 - g) The name and address of the entity that performed the recall remedy on the vehicle (e.g., Healey Brothers Ford).

If a vehicle was subject to more than one recall, please provide a separate response for each associated recall (e.g., if a vehicle was subject to two different recalls, the vehicle should have two separate responses organized and identified by their respective NHTSA recall number).

Provide your responses in a table in Microsoft Excel entitled “Vehicle Recalls”.

2. Produce copies of all documents, including delivery checklists or other documents that substantiate purchaser (or lessee) delivery dates, that evidence, substantiate, or are otherwise related to your responses to Information Request No. 1(d)-(g). Organize the documents separately by VIN.

3. Provide a copy of all policies, procedures, processes, and/or training that Healey Brothers Ford has or had in effect from May 1, 2017, to present regarding compliance with the prohibition on delivery of unremedied new vehicles subject to NHTSA recalls per 49 U.S.C. §§ 30112(a), 30120(i), and 49 C.F.R. § 573.11. Additionally, please provide the following:
 - a. The date when each such policy, procedure, process, and/or training was implemented.
 - b. State whether each such policy, procedure, and/or process currently is in effect.
 - c. Identify the categories of Healey Brothers Ford employees that received each such policy, procedure, process, and/or training.
 - d. Describe how each such policy, procedure, process, and/or training was provided or made available to Healey Brothers Ford employees.
 - e. Describe what changes have been made since May 1, 2017, if any, to each such policy, procedure, process, and/or training and the reasons for each change.
4. Describe any actions Healey Brothers Ford has taken from May 1, 2017, to present to evaluate or audit compliance with the prohibition on delivery of unremedied new vehicles subject to NHTSA recalls per 49 U.S.C. §§ 30112(a), 30120(i), and 49 C.F.R. § 573.11. Describe the findings of any such evaluation or audit, and provide a copy of any documents addressing the findings.
5. Describe any actions Healey Brothers Ford has taken to address any noncompliance with the prohibition on delivery of unremedied new vehicles subject to NHTSA recalls per 49 U.S.C. §§ 30112(a), 30120(i), and 49 C.F.R. § 573.11
6. Provide any additional information Healey Brothers Ford considers important for the agency to consider in reviewing and evaluating Healey Brothers Ford's responses to any of the requests above. As one example, identify any anomalies in the data or documents and explain the reason(s) for those anomalies.

Legal Authority for This Request

This letter is being sent to Healey Brothers Ford pursuant to 49 U.S.C. § 30166, which authorizes NHTSA to conduct any investigation that may be necessary to enforce Chapter 301 of Title 49 and to request reports. It constitutes a new request for information.

Civil Penalties

Healey Brothers Ford's failure to respond promptly and fully to this letter could subject Healey Brothers Ford to civil penalties pursuant to 49 U.S.C. § 30165 or lead to an action for injunctive relief pursuant to 49 U.S.C. § 30163. (Other remedies and sanctions are available as well.) 49 U.S.C. § 30165(a)(3), provides for civil penalties of up to \$24,423 per violation per day, with a maximum of \$122,106,996 for a related series of daily violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. *See* 49 C.F.R. § 578.6(a)(3). This includes failing to respond completely, accurately, or in a timely manner to ODI information requests.

If Healey Brothers Ford cannot respond to any specific request or subpart(s) thereof, please state the reason why it is unable to do so. If on the basis of attorney-client, attorney work product, or other privilege, Healey Brothers Ford does not submit one or more requested documents or items of information in response to this information request, Healey Brothers Ford must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, the name and position of the person(s) from, and the person(s) to whom it was sent, and the name and position of any other recipient (to include all carbon copies or blind carbon copies), the nature of that information or material, and the basis for the claim of privilege and why that privilege applies.

Confidential Business Information

If Healey Brothers Ford's response contains any information that you claim is confidential business information, Healey Brothers Ford must request two secure electronic file transfer links from Dr. Beth Wolfe by emailing Elizabeth.Wolfe@dot.gov. One secure electronic file transfer link is for your request for confidential treatment and will be directed to NHTSA's Office of the Chief Counsel. Please see Enclosure 1 for additional instructions on submitting a request for confidential treatment that is compliant with 49 C.F.R. Part 512 (specifically, a request for confidential treatment must include the four required parts that are discussed in Enclosure 1). The second secure electronic file transfer link is for your non-confidential response to this letter. Do not submit any confidential business information along with your non-confidential submission. Please refer to AQ22-002 in Healey Brothers Ford's response to this letter and in a request for confidential treatment that Healey Brothers Ford may submit.

Due Date

Healey Brothers Ford's response to this letter must be submitted to this office by *July 6, 2022*. If Healey Brothers Ford finds that it is unable to provide all of the information requested within the time allotted, Healey Brothers Ford must request an extension from me at (202) 493-0481 no later than five business days before the response due date. If Healey Brothers Ford is unable to provide all of the information requested by the original deadline, it must submit a partial response by the original deadline with whatever information Healey Brothers Ford then has available, even if an extension has been granted.

If you have any technical questions concerning this matter, please call Dr. Beth Wolfe of my staff at (202) 366-3976.

Sincerely,

ALEXANDER
PRICE ANSLEY

Alex Ansley, Chief
Recall Management Division
Office of Defects Investigation

Enclosure 1, Information for Requests for Confidential Treatment.

If you believe that your response contains any material that you claim is confidential business information, submit these materials to NHTSA's Office of the Chief Counsel in accordance with 49 C.F.R. Part 512. **All requests for confidential treatment must be submitted directly to the Office of the Chief Counsel. Upon request, ODI will provide you with a secure file transfer link for your submission to the Office of the Chief Counsel.**

Requests for confidential treatment are governed by Part 512. A current version of this regulation is available on the internet at <http://www.ecfr.gov> by selecting Title 49 "Transportation," selecting "Parts 500 – 599" and then selecting Part 512 "Confidential Business Information."

How to request confidential treatment:

NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under Part 512. If you claim that any of the information or documents provided in your response constitutes confidential business information within the meaning of 5 U.S.C. § 552(b)(4), or is protected from disclosure pursuant to 18 U.S.C. § 1905, you must request a secure file transfer link from the ODI contact listed in your Information Request. ODI will copy a representative from the Office of the Chief Counsel on the secure file transfer link for your request for confidential treatment. You must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with Part 512, to the Office of the Chief Counsel. Do not send a hardcopy of a request for confidential treatment to NHTSA's headquarters.

Your request must include a request letter that contains supporting information, pursuant to Part 512.8. Your request must also include a certificate, pursuant to Part 512.4(b) and Part 512, Appendix A.

You are required to submit one unredacted "confidential version" of the information for which you are seeking confidential treatment. Pursuant to Part 512.6, the words "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS" (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: "[]."

You are also required to submit one redacted "public version" of the information for which you are seeking confidential treatment. Pursuant to Part 512.5(a)(2), the redacted "public version" should include redactions of any information for which you are seeking confidential treatment (i.e., the only information that should be unredacted is information for which you are **not** seeking confidential treatment).

For questions about a request for confidential treatment, please contact Dan Rabinovitz in the

Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov or (202) 366-8534