

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

1200 New Jersey Avenue, SE  
West Building, W41-326  
Washington, DC 20590

**In re:** )  
 )  
AQ15-001 )  
Triumph Motorcycles (America) Ltd. )  
 )

**SPECIAL ORDER DIRECTED TO TRIUMPH MOTORCYCLES (AMERICA) LTD.**

To:

Donald Carleo, CFO  
Matt Sheahan, COO  
Triumph Motorcycles (America) Ltd.  
100 Hartsfield Centre Parkway  
Suite 200  
Atlanta, Georgia 30354

This Special Order is issued by the Secretary of Transportation pursuant to 49 U.S.C. § 30166(g)(1)(A) and 49 C.F.R. §§ 510.7 and 510.8, and pursuant to a delegation of authority to the Chief Counsel of the National Highway Traffic Safety Administration (“NHTSA”), an Operating Administration of the United States Department of Transportation, 49 C.F.R. §§ 1.95, 501.8(d).

On September 8, 2014, Triumph Motorcycles America, Ltd. (“Triumph”) notified NHTSA that Triumph determined that a defect, which relates to motor vehicle safety, exists in 1,368 model year (“MY”) 2012-2013 Triumph Street Triple R motorcycles manufactured July 1, 2012 to October 1, 2013, and equipped with ABS. According to Triumph’s report (“Part 573 Report”), in the affected motorcycles, the safety defect concerns a condition in which the four bolts that secure the two cable guides on either side of the headstock do not contain threadlock. As a result, the bolts could loosen. NHTSA designated this recall as Recall No. 14V-548. Based

on Triumph's chronology of events, NHTSA opened an Audit Query (AQ) to investigate whether Triumph's Part 573 Report submission for Recall No. 14V-548 to NHTSA was untimely. To further its investigation, this Special Order now demands certain information from Triumph.

Based on information currently available to the NHTSA, it appears that Triumph may also be in violation of its early warning reporting obligations pursuant to 49 U.S.C. § 30166(m) and 49 C.F.R. Part 579, and its obligations to file quarterly reports pursuant to 49 C.F.R. Part 573 after Triumph determined that there was a safety-related defect in vehicles it manufactured. To further the investigation into these apparent violations, this Special Order demands certain information from Triumph.

Triumph's response to this Special Order must be provided by **May 26, 2015**. Triumph's response must be signed under oath, i.e., accompanied by an affidavit, signed by a responsible officer of Triumph, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of Triumph to be searched diligently for information and documents responsive to this Special Order and produced them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this Special Order. 49 U.S.C. § 30166(g)(1)(A); 49 C.F.R. § 510.7.

Failure to respond fully or truthfully to this Special Order may result in a referral to the United States Department of Justice for a civil action to compel responses, and may subject Triumph to civil penalties of up to \$7,000 per day, up to a maximum penalty of \$35,000,000 for a related series of daily violations. 49 U.S.C. §§ 30163(a)(1), 30165(a)(3); 49 C.F.R. § 578.6(a)(3). Falsifying or withholding information in response to this Special Order may also

lead to criminal penalties of a fine or imprisonment of up to 15 years, or both. 49 U.S.C. § 30170(a)(1).

### DEFINITIONS

To the extent used in this Special Order, the following definitions apply:

1. **“Affiliates”** means a corporation that is related to another corporation (such as a subsidiary, parent, or sibling corporation) by shareholdings or other means of control.
2. **“Agent”** means an individual, such as a representative, who is authorized to act for or in place of another.
3. **“Defect” or “Defect Condition”** means the absence of the threadlock on the four bolts that secure two cable guides on either side of the headstock.
4. **“Document(s)”** is used in the broadest sense of the word under Rule 34 of the Federal Rules of Civil Procedure, and includes 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, electronic communications (existing in hard copy and/or in electronic storage), invoices, contracts, agreements, manuals, publications, photographs of all types, and all mechanical, magnetic, and electronic records or recordings of any kind. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by the manufacturer or not. If a document is not in the English language, provide both the original document and an English translation of the document.

5. **“Employee”** means a person who works in the service of another person (the employer) under an express or implied contract of hire, under which the employer has the right to control the details of work performance.

6. **“Identify”, “identity” or “identification,”** with respect to a person, means to provide that person’s name, title or position, employer, and last known business address and telephone number. With respect to a document, means the date (or time period covered if not dated), nature of document, author, and recipient(s). With respect to a business, means to provide the corporate address, name of its principals, telephone number, and name and address of the agent for service. With respect to a website, means the url of the site, the name and address of the owner of the site and the name and address of administrator of the website.

7. **“Officer”** means a person who holds an office of trust, authority, or command, such as a person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a CEO, president, secretary, or treasurer.

8. **“Subject Vehicles”** means 2012-2013 Triumph Street Triple R with ABS.

9. **“Triumph”** means Triumph Motorcycles (America), Ltd. and Triumph Motorcycles, Ltd., 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 Triumph Motorcycles (America), Ltd. or Triumph Motorcycles, Ltd. (including all business units and persons previously referred to).

10. **“You” or “Your”** means Triumph or Triumph’s.

11. **“First calendar quarterly report”** means the quarterly report under 49 C.F.R. 573.7 for the period January 1 through March 31.
12. **“Second calendar quarterly report”** means the quarterly report under 49 C.F.R. 573.7 for the period April 1 through June 30.
13. **“Fourth calendar quarterly report”** means the quarterly report under 49 C.F.R. 573.7 for the period October 1 through December 31.
14. **Other terms.** To the extent that they are used in these requests, the terms “claim,” “consumer complaint,” “dealer field report,” “field report,” “fleet,” “good will,” “make,” “model,” “model year,” “notice,” “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.

### **INSTRUCTIONS**

1. Your response to the Special Order shall be sent to Office of the Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590.
2. Please repeat the applicable request verbatim above your response. After your response to each request, identify the source of the information and indicate the last date the information was gathered.
3. 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 also be reminded that where a document responsive to a request is not in the English language, both the original document and an English translation of the document must be produced.

4. You are required to respond to every request listed in this Special Order. If you cannot respond to any specific request or subpart(s) thereof, please state the reason why you are unable to do so. If you are unable to respond because you do not have all or any of the precise information needed to respond, provide an estimate. If, on the basis of attorney-client, attorney work product, or other privilege, you do not submit one or more requested documents or items of information in response to this Special Order, you must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, 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.

5. The response to this Special Order, including any documents produced, must be submitted in duplicate, together with a copy of any confidentiality request, to this office by the deadline stated above.

6. If you claim that any of the information or documents provided in response to this Special Order constitutes confidential commercial material 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 submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 C.F.R. Part 512, to the Office of Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590. You are required to submit two copies of the documents containing allegedly confidential information and one copy of the documents from which information claimed to be confidential has been deleted. Failure to adhere to the requirements of 49 C.F.R. Part 512 will result in a rejection of your request for confidential treatment.

7. All documents shall be produced electronically, as described below, in a common format (e.g. Word or PDF).

- a. Hard copy documents shall be imaged in PDF format. They shall be provided as multi-page PDFs with document level optical character recognition (OCR).
- b. Electronically Stored Information (ESI) shall be converted to multi-page PDFs and produced along with document level OCR/extracted text.
- c. You shall produce an index that lists the title of each document produced and the request to which it corresponds.

8. The singular includes the plural; the plural includes the singular. The masculine gender includes the feminine and neuter genders; and the neuter gender includes the masculine and feminine genders. "And" as well as "or" shall be construed either disjunctively or conjunctively, to bring within the scope of this Special Order all responses that might otherwise be construed to be outside its scope. "Each" shall be construed to include "every" and "every" shall be construed to include "each." "Any" shall be construed to include "all" and "all" shall be construed to include "any." The use of a verb in any tense shall be construed as the use of the verb in a past or present tense, whenever necessary to bring within the scope of the document requests all responses which might otherwise be construed to be outside its scope.

9. Triumph's response to this Special Order must be under oath, i.e., accompanied by an affidavit, signed by a responsible officer of Triumph, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of Triumph to be searched diligently for information and documents responsive to this Special Order and produced

them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this Special Order.

### **REQUESTS**

1. Triumph's chronology contained in the Part 573 Report for NHTSA Recall No. 14V-548 states, "30 April 2013 Triumph central warranty notified by subsidiary personnel of potential defect."<sup>1</sup> Answer the following requests related to this part of the chronology:

- a. Describe where "Triumph central warranty" fits in the organizational structure of Triumph.
- b. Describe the overall process used by Triumph to make a defect determination, and specify what role "Triumph central warranty" has in that process.
- c. Identify the "subsidiary personnel" referenced in the chronology.
- d. Provide a summary of the notification to "Triumph central warranty."
- e. Produce a copy of all documents related to the notification to central warranty.
- f. Produce a copy of all documents referring or relating to the "potential defect".

2. Triumph's chronology contained in the Part 573 Report for NHTSA Recall No. 14V-548 states, "4 June 2013 Triumph central warranty notifies Triumph North America".

Answer the following questions relating to this part of the chronology:

- a. Describe the contents of the notification from "Triumph central warranty" to Triumph North America.
- b. Identify the individuals at Triumph North America who were notified by "Triumph central warranty."
- c. Produce a copy of all documents referring or relating to the notification from "Triumph central warranty."

---

<sup>1</sup> Available at <http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM464419/RCAK-14V548-6482.pdf>.

- d. Provide a detailed chronology of the steps taken by Triumph North America after receiving the June 4, 2013 notification that related to Triumph's initiation of a recall.
3. Provide a detailed summary of circumstances relating to the decision to recall the subject vehicles for the defect. Your response must include the date that the safety-related defect decision was made, who made that decision, the date any recall notification was filed with the United Kingdom's Department for Transport or other governmental authority in the United Kingdom, and the date that Triumph first filed a Part 573 Report with NHTSA relating to the defect in the subject vehicles.
4. Provide all documents referring or relating to Triumph's decision to recall the subject vehicles for the defect.
5. If you are contending that Triumph filed a Part 573 Report with NHTSA relating to the defect in the subject vehicles prior to September 8, 2014:
  - a. Produce a copy of all documents to support your contention, and
  - b. Produce a copy of all notices, bulletins, dealer notifications, and other communications that relate to the recall, including a copy of the final owner notification letter and any subsequent owner follow-up notification letter(s) (sent to more than one manufacturer, distributor, dealer, or purchaser/owner) provided to NHTSA's Recall Management Division, along with any documentation of NHTSA's receipt of such communications.
6. For a period of five years prior to the date of this Special Order, provide a copy of all notices, bulletins, and other communications as specified by 49 C.F.R. § 579.5 that Triumph

has not previously provided to NHTSA. To the extent not indicated on the document, provide the date that each notice, bulletin, or other communication responsive to this request was issued.

7. For each communication identified in response to Request No. 6 that has not previously been provided to NHTSA, provide an explanation for Triumph's failure to report to NHTSA.

8. Describe in detail Triumph's process for collecting notices, bulletins, and other communications described in 49 C.F.R. § 579.5 that Triumph sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States and describe the process for providing those communications to NHTSA pursuant to 49 C.F.R. § 579.5. State whether Triumph has made any changes to that process during the prior five years and, if yes, describe the changes.

9. Describe in detail any changes Triumph anticipates making to its process for collecting notices, bulletins, and other communications described in 49 C.F.R. § 579.5 that Triumph sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States and providing those communications to NHTSA pursuant to 49 C.F.R. § 579.5. Your response should include an anticipated timeline for implementing any such changes.

10. For a period of five years prior to the date of this Special Order, provide a list of all corporate entities, including any parent corporation, subsidiary, or affiliate and any subsidiary or affiliate of a parent corporation, for which Triumph Motorcycles America Ltd. has submitted information pursuant to 49 C.F.R. §§ 579.23 or 579.27. For each entity listed in your response provide:

- a. The name, title, business address, business email, and business telephone number of the person responsible for meeting that entity's reporting obligations pursuant to 49 C.F.R. Part 579;
- b. The name, title, business address, business email, and business telephone number of the person responsible for collecting and administering death and injury claims for that entity;
- c. The name, title, business address, business email, and business telephone number of the person responsible for collecting and administering property damage claims for that entity;
- d. The name, title, business address, business email, and business telephone number of the person responsible for collecting and compiling consumer complaints for that entity;
- e. The name, title, business address, business email, and business telephone number of the person responsible for collecting and administering warranty claims for that entity; and
- f. The name, title, business address, business email, and business telephone number of the person responsible for collecting and compiling field reports for that entity.

11. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from April 1, 2005 through the present date, provide the production information specified by 49 C.F.R. § 579.23(a).

12. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from April 1, 2005 through the present date, provide a report on each incident involving one or more deaths or injuries as specified by 49 C.F.R. § 579.23(b) that has not previously been provided to NHTSA. For each incident within the scope of your response provide:

- a. A complete copy of the initial claim or notice document(s) that notified Triumph of the incident, excluding: (a) medical documents and bills, except those showing the cause of death or injury; (b) property damage invoices or estimates; and (c) documents related to damages;
- b. A copy of any police accident report concerning the incident;
- c. Triumph's assessment of the circumstances that led to the incident including Triumph's analysis of the claim and/or notice regarding allegations of a defect; and,

- d. For any lawsuit related to the incident, provide a copy of the most recent complaint and describe the current status of the lawsuit. If the lawsuit has been resolved as to Triumph, your response should indicate the date of resolution and describe the resolution.

13. Describe in detail Triumph's process for determining whether any incident involving one or more deaths or injuries needed to be reported to NHTSA pursuant to 49 C.F.R. § 579.23. Your response should include an explanation of any changes to Triumph's process, including those made as a result of any amendments to 49 C.F.R. Part 579 or any allegation or assessment that Triumph failed to fully comply with 49 C.F.R. Part 579. Your response should also include an explanation of why Triumph failed to report to NHTSA pursuant to 49 C.F.R. Part 579 any incidents included within the scope of your response to Request No. 12.

14. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from April 1, 2005 through the present date, provide separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 20 in paragraph (b)(2) of 49 C.F.R. § 579.23 or a fire (code 23) not previously provided to NHTSA.

15. Describe in detail Triumph's process for determining whether property damage claims, consumer complaints, warranty claims, and field reports involving systems and components specified in 49 C.F.R. § 579.23 need to be reported to NHTSA pursuant to 49 C.F.R. Part 579. State whether Triumph has made any changes to that process during the prior five years and, if yes, describe the changes.

16. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from April 1, 2005 through the present date, provide copies of all field reports required under 49 C.F.R. § 579.23(d) not previously provided to NHTSA.

17. Describe in detail Triumph's process for determining whether field reports specified in 49 C.F.R. § 579.23 need to be reported to NHTSA pursuant to 49 C.F.R. Part 579. State whether Triumph has made any changes to that process during the prior five years and, if yes, describe the changes.

18. To the extent that Triumph failed to report to NHTSA pursuant to 49 CFR Part 579 reports required under 49 C.F.R. § 579.23(c) or 49 C.F.R. § 579.23(d), provide an explanation for Triumph's failure to report such information.

19. If you believe Triumph is not covered by the reporting requirements in 49 C.F.R. § 579.23, answer the following questions:

- a. Provide a detailed summary explaining the basis for your belief that Triumph is not covered by the reporting requirements of 49 C.F.R. § 579.23.
- b. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from April 1, 2005 through the present date, provide a report on each incident involving one or more deaths as specified by 49 C.F.R. § 579.27, not previously provided to NHTSA.
- c. Describe in detail Triumph's process for determining whether any incident involving one or more deaths or injuries needed to be reported to NHTSA pursuant to 49 C.F.R. § 579.27. Your response should include an explanation of any changes to Triumph's process, including those made as a result of any amendments to 49 C.F.R. Part 579 or any allegation or assessment that Triumph failed to fully comply with 49 C.F.R. Part 579. Your response should also include an explanation of why Triumph failed to report to NHTSA pursuant to 49 C.F.R. Part 579 any incidents included within the scope of your response above.

20. For a period of five years prior to the date of this Special Order, provide a list of all corporate entities, including any parent corporation, subsidiary, or affiliate and any subsidiary or affiliate of a parent corporation, for which Triumph Motorcycles America Ltd. has submitted a defect or noncompliance information report to pursuant 49 C.F.R. § 573.6.

21. On or about September 29, 2014, NHTSA informed Triumph that according to our records, Triumph's second calendar quarterly report for Recall No. 13V-608 was due on or before July 30, 2014, and that we have not received this report. Answer the following:

- a. State the date which you first provided this quarterly report to NHTSA.
- b. If you contend that this date was on or before July 30, 2014, produce all documents to support your contention.

22. On or about February 25, 2015, NHTSA informed Triumph that according to our records, Triumph's fourth calendar quarterly report for Recall No. 13V-608 was due on or before January 30, 2015, and that we have not received this report. Answer the following:

- a. State the date that you first provided this quarterly report to NHTSA.
- b. If you contend that the date was before January 30, 2015, produce all documents to support your contention.

23. With respect to other quarterly reports required for Recall No. 13V-608, state the date that you first provided to NHTSA the first calendar quarterly report for 2014.

24. On or about September 26, 2014, NHTSA informed Triumph that according to our records, Triumph's second calendar quarterly report for Recall No. 14V-009 was due on or before July 30, 2014, and that we had not received this report. Answer the following:

- a. State the date that you first provided this quarterly report to NHTSA.

- b. If you contend that the date was before July 30, 2014, produce all documents to support your contention.

25. With respect to other quarterly reports required for Recall No. 14V-009, state the date that you first provided to NHTSA the first calendar quarterly report for 2014.

26. On or about February 25, 2015, NHTSA informed Triumph that according to our records, Triumph's fourth calendar quarterly report for Recall No. 14V-009 was due on or before January 30, 2015, and that we have not received this report. Answer the following:

- a. State the date that you first provided this quarterly report to NHTSA.
- b. If you contend that the date was before January 30, 2015, produce all documents to support your contention.

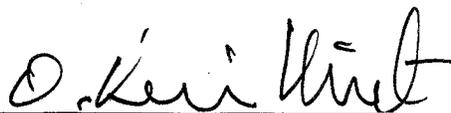
27. On or about February 25, 2015, NHTSA informed Triumph that according to our records, Triumph's fourth calendar quarterly report for Recall No. 14V-548 was due on or before January 30, 2015, and that we have not received this report. Answer the following:

- a. State the date that you first provided this quarterly report to NHTSA.
- b. If you contend that the date was before January 30, 2015, produce all documents to support your contention.

28. On or about February 25, 2015, NHTSA informed Triumph that according to our records, Triumph's fourth calendar quarterly report for Recall No. 14V-694 was due on or before January 30, 2015, and that we have not received this report. Answer the following:

- a. State the date that you first provided this quarterly report to NHTSA.
- b. If you contend that the date was before January 30, 2015, produce all documents to support your contention.

Dated: 4/29/2015

  
O. Kevin Vincent  
Chief Counsel