

## 3 Takata Execs Face Criminal Charges Over Air Bag Scheme

By **Emily Field**

Law360, New York (January 13, 2017, 5:33 PM EST) -- Three **Takata Corp.** executives have been indicted on criminal charges for their alleged roles in a more than decadelong scheme to hide the truth about the company's potentially deadly air bag inflators from automakers, federal regulators and the public, the **U.S. Department of Justice** announced Friday.

The three executives, all Japanese citizens, are alleged to have routinely discussed in emails the need to falsify reports to their automaker customers and referred to altering or omitting unfavorable test data as "XX-ing" the data, U.S. Attorney Barbara McQuade said during a press conference in Detroit. The three men, who worked for Takata since the 1970s and '90s, are facing charges of wire fraud and conspiracy to commit wire fraud, according to the DOJ.

"Even after the inflators began to fail in the field and injuries and deaths were occurring, these Takata executives continued to withhold the true data from its customers," McQuade said. "If these carmakers had known the truth about the dangers of these air bags and the ruptures, they would have insisted that these problems be resolved and they would have refused to put these air bags in their cars."

Millions of air bags made by Takata have been recalled worldwide because of their inflators' alleged tendency to explode. The cheap but volatile ammonium nitrate that inflates the bags can misfire, especially in humid conditions, and shoot off chemicals and shards at passengers and drivers.

These inflators have been linked to 16 deaths worldwide, **11 of which were in the U.S.**, as well as at least a hundred injuries.

The executives — Shinichi Tanaka, 59, Hideo Nakajima, 65, and Tsuneo Chikaraishi, 61 — were each charged in an indictment filed Dec. 7 in Michigan federal court; the documents were unsealed on Friday morning.

The executives were suspended by Takata in 2015 and are not currently working for the company, McQuade said. The DOJ will be working with Japanese authorities to secure their extradition, according to

McQuade.

They are alleged to have signed and submitted false reports to customers and directed engineers to falsify data, McQuade said. Tanaka was the executive vice president of the inflator global operations; Nakajima oversaw engineering at Takata's automotive systems lab; and Chikaraishi was head of Asian air bag inflator operations, according to McQuade.

McQuade also formally announced that — **as reported Thursday** — Takata has agreed to plead guilty to wire fraud and pay a total of \$1 billion in penalties for fraudulently concealing the truth about its air bag inflators.

Under the terms of the agreement, Takata will pay \$975 million in restitution and a \$25 million fine. Two restitution funds will be established: a \$125 million compensation fund for past and future victims who haven't reached a settlement, and a \$850 million fund to compensate automakers for the costs of recalling and replacing the air bags.

The parties have recommended that Kenneth Feinberg, who oversaw the [General Motors](#) ignition switch compensation fund, be tapped as special master for the funds, McQuade said.

A little more than a year ago, the [National Highway Traffic Safety Administration](#) imposed on Takata a \$200 million fine, its largest ever, in a deal that included the auto parts maker admitting that it failed to alert the agency of the defect despite knowing about it and then withholding relevant investigative information.

At that time, NHTSA estimated that the exploding inflators had caused around 98 injuries, with most inflator ruptures taking place on the driver's side of the vehicle.

The recall of the notorious Takata air bag inflators in the U.S. became the largest in the country's history in May when NHTSA added at least 35 million units, more than doubling its size.

A massive multidistrict litigation involving personal injury victims and people whose car values have decreased is in progress in Florida. Defendants include Takata itself and a number of automakers.

“Takata’s criminal guilty plea comes as no surprise and was expected,” Peter Prieto of [Podhurst Orseck PA](#), chair lead plaintiffs’ counsel, said in a statement Friday. “The guilty plea also will have no adverse impact on the civil cases against the automakers in the MDL because the automakers have separate and independent civil liability to their consumers who bought their cars not from Takata but from the automakers, all of whom represented that their cars were safe.”

The Takata executives could not be reached for comment Friday.

The DOJ is represented by U.S. Attorney Robert Zink, Trial Attorneys Brian K. Kidd, Christopher D. Jackson and Andrew R. Tyler, and Assistant U.S. Attorneys John K. Neal, Erin S. Shaw and Andrew J. Yahkind.

Counsel information for the executives was not immediately available Friday.

The case is U.S. v. Tanaka, case number 16-cr-20810, in the U.S. District Court for the Eastern District of Michigan.

--Editing by Breda Lund.