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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: VOLKSWAGEN "CLEAN DIESEL" MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION Relates to: *FTC v. Volkswagen Group of America, Inc.*, No. 3:16-cv-1534 (N.D. Cal).	**MDL DOCKET NO. 2672** **FEDERAL TRADE COMMISSION'S FINAL STATUS REPORT ON CONSUMER COMPENSATION** The Honorable Charles R. Breyer

In 2016 and 2017, the Court entered several settlements resolving the serious consumer and environmental issues Volkswagen's "Clean Diesel" affair raised. As the Court undoubtedly recalls, Volkswagen (through its VW and Audi brands) and Porsche (collectively, "Defendants") unlawfully marketed more than 550,000 vehicles as "clean" and environmentally-friendly. Through the settlements, DOJ, EPA, CARB, and their partners primarily addressed the environmental problems, whereas the FTC and the private bar primarily addressed consumer harm, including measures that fully compensated the victims of Volkswagen's unprecedented deception. Although the FTC cannot comment regarding the environmental settlements, it can report about the consumer agreements that the Commission negotiated and oversaw. The compensation components of these settlements are now materially complete.

Thanks to the efforts of the parties involved with the consumer settlements—the Court, the FTC, the private bar, the independent Claims Supervisor, and Defendants themselves—this is one of the most successful consumer redress programs in history.

In total, Defendants repaid consumers more than $9.5 billion.[1] The two FTC settlements ("FTC Orders") required far more robust notice procedures than many private settlements provide, *see* DE2104 (Oct. 25, 2016) at 15-18, DE3227 (May 17, 2017) at 19-21, and consumers responded: Defendants made payments associated with more than 88% of their "Clean Diesel" vehicles.[2] The FTC Orders also afforded most affected consumers a choice to (a) have Defendants take back their vehicle (buying it back at favorable pre-negotiated prices or terminating leases early with compensation), or (b) have Defendants modify their vehicle and provide compensation. *See* DE2104 at 21-25; DE3227 at 19-23. Consumers responded to this choice as well: of U.S. consumers eligible to choose a buyback or early lease termination who proceeded through the claims process, made a choice, and received their remedy, 86.2% chose a buyback or early lease termination.

Notably, and also unlike some other settlements in complex consumer litigation, the FTC Orders imposed tight claims deadlines and other measures intended to enhance consumers' experience despite the redress program's size and complexity.[3] To their substantial credit, Defendants successfully managed the settlement administration process despite the enormous claims volume. Among other things, Defendants moved most claims along quickly and assisted consumers through the process in good faith. By way of example—and contrary to consumer experience in other areas (and other settlements)—when consumers called Defendants, Defendants gave consumers remarkably accurate information for a redress plan this large and complex. In fact, Defendants provided accurate information 98% of the time, and most calls successfully addressed the consumer's concerns.[4]

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[1] This figure does not include more than $300 million Bosch also paid to consumers.

[2] The FTC derived most of the information provided herein from data assembled and analyzed by the independent Claims Supervisor.

[3] The private class action consumer settlements contained provisions that largely tracked the FTC Orders or supplemented their provisions.

[4] The Claims Supervisor monitored a statistically significant sample of Defendants' calls with consumers. Though still imperfect, Defendants' success rate far exceeds what one might reasonably expect in many customer service contexts.

Furthermore, the settlements included an independent "Claims Supervisor" (a monitor) tasked with supervising Defendants' compliance. The Claims Supervisor's presence, and effective performance, undoubtedly helped facilitate the extremely positive result. Additionally, the FTC Orders included specific provisions for military consumers, including those overseas. Of eligible military consumers who pursued claims, Defendants paid every one.

Most important, the FTC Orders and related private class settlements provided redress sufficient to compensate consumers fully. The FTC Orders required payments to consumers that included compensation for their vehicles' full retail value and all other losses Defendants' deception caused: for instance, time spent shopping for new vehicles, sales taxes and registration fees, the value of the lost opportunity to drive an environmentally-friendly vehicle, and the additional amount consumers paid for a vehicle feature (clean emissions) that Defendants falsely advertised. *See* DE1781 (Aug. 26, 2016); DE3184 (Apr. 27, 2017) at 2. Accordingly, the settlement compensation restored consumers to the position they would have enjoyed without unlawful claims. The settlements in this case were enormous, and sufficient to provide consumers with complete relief, but that was only half the battle. Those funds had to be returned to consumers in an equitable, efficient, and consumer-friendly manner. Here, the detailed administrative process the FTC Orders set forth, combined with the efforts of the Court, FTC, private bar, Claims Supervisor, and Defendants themselves, led to an extremely successful process.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on July 27, 2020, I caused true copies of the foregoing to be served by electronic means by filing this document through the Court's Electronic Case Filing system.

Additionally, I emailed courtesy copies to:

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