

NOV 17 2016

At 5:20 p M.
Velva L. Price, District Clerk

NO. D-1-GN-16-000449

IN RE VOLKSWAGEN CLEAN DIESEL
LITIGATION: CONSUMER CASES

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IN THE DISTRICT COURT OF
TRAVIS COUNTY, TEXAS
353RD JUDICIAL DISTRICT

Transferred from

NO. D-1-GN-15-004504

THE STATE OF TEXAS,

Plaintiff,

v.

VOLKSWAGEN GROUP OF AMERICA,
INC.; VOLKSWAGEN AG; AUDI OF
AMERICA, LLC; AUDI AG; AND
VOLKSWAGEN GROUP OF AMERICA
CHATTANOOGA OPERATIONS, LLC,

Defendants.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

201ST JUDICIAL DISTRICT

AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION

On this date, came for hearing in the above-entitled and numbered cause in which the STATE OF TEXAS ("Plaintiff" or "State"), acting by and through Attorney General of Texas, KEN PAXTON, on behalf of his Consumer Protection Division, is Plaintiff, and VOLKSWAGEN GROUP OF AMERICA, INC.; AUDI OF AMERICA, LLC; VOLKSWAGEN AG; AUDI AG; and VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC (collectively, "Volkswagen" or "Defendants"), are Defendants. Through their respective attorneys of record, the parties wish to make the following stipulations and agree

to entry of this AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION (hereafter "AFJPI" or "Judgment").

I. DEFINITIONS

1.1 For purposes of this AFJPI, the following definitions shall apply:

A. **"CA AG Consent Decree"** shall mean the California Attorney General's Partial Consent Decree filed in the Federal MDL on July 7, 2016, and entered on September 1, 2016.

B. **"Class Action Settlement"** shall mean the Plaintiffs' Steering Committee's Consumer Class Action Settlement and Release filed in the Federal MDL on June 28, 2016, preliminarily approved on July 26, 2016, and entered on October 25, 2016.

C. **"Consumer"** shall mean an individual, partnership, corporation, or entity of any kind, including this state or a subdivision or agency of this state, which seeks or acquires by purchase or lease, any goods or services.

D. **"Consumer Protection Laws"** shall mean all potentially applicable consumer protection and unfair trade and deceptive acts and practices laws, as well as common law and equitable claims, that could be brought by the Attorney General of the State of Texas in its sovereign enforcement capacity.

E. **"Covered Conduct"** shall mean any and all acts or omissions, including all communications, occurring up to and including the date this AFJPI is entered by the Court, relating to: (i) the design, installation, presence, or failure to disclose any Defeat Device in any Subject Vehicle; (ii) the marketing or advertisement of any Subject Vehicle as green, clean, or environmentally friendly (or similar such terms), and/or

compliant with any state or federal emissions standards, including the marketing or advertisement of any Subject Vehicle without disclosing the design, installation, or presence of a Defeat Device; and (iii) the sale or lease, or offering for sale or lease, of the Subject Vehicles in Texas.

F. **“Defeat Device”** shall mean “an auxiliary emission control device (“AECD”) that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use, unless: (1) Such conditions are substantially included in the Federal emission test procedure; (2) the need for the AECD is justified in terms of protecting the vehicle against damage or accident; (3) the AECD does not go beyond the requirements of engine starting; or (4) the AECD applies only for emergency vehicles[,]” 40 C.F.R. § 86.1803-01, or “any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with [the Emissions Standards for Moving Sources section of the Clean Air Act], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use,” 42 U.S.C. § 7552(a)(3)(B).

G. **“DOJ Consent Decree”** shall mean the United States Department of Justice’s, on behalf of the Environmental Protection Agency (“EPA”), and California Air Resources Board’s Partial Consent Decree filed in the Federal MDL on June 28, 2016, and entered on October 25, 2016.

H. **"DTPA"** shall mean the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE § 17.41 *et seq.*

I. **"Defendants"** or **"Volkswagen"** shall mean Volkswagen Group of America, Inc.; Audi of America, LLC; Volkswagen AG; Audi AG; and Volkswagen Group of America Chattanooga Operations, LLC.

J. **"Effective Date"** shall mean the date this AFJPI is entered by the Court.

K. **"Federal MDL"** shall mean the multidistrict litigation styled as *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, No. 3:15-md-02672-CRB (N.D. Cal.) (MDL 2672).

L. **"FTC Order"** shall mean the Federal Trade Commission's Partial Stipulated Order for Permanent Injunction and Monetary Judgment filed in the Federal MDL on June 28, 2016, and entered on October 25, 2016.

M. **"Notice Administrator"** shall mean the third-party agent or administrator agreed to by the parties to the Class Action Settlement and appointed by the Federal MDL Court to implement and consult on Class Notice, as that term is defined in the Class Action Settlement.

N. **"Released Parties"** shall mean Defendants, their affiliates, and any of Defendants' affiliates' former, present or future owners, shareholders, directors, officers, employees, attorneys, parent companies, subsidiaries, predecessors, successors, dealers, agents, assigns and representatives.

O. **"Represent"** shall mean to make an affirmative declaration of the representation orally, in writing, or through other communication.

P. "Subject Vehicles" shall mean each and every light duty diesel vehicle equipped with a 2.0 liter or 3.0 liter TDI engine that Defendants or their affiliates sold or offered for sale in, leased or offered for lease in, or introduced or delivered for introduction into commerce in the State of Texas, and that is or was purported to have been covered by the EPA Test Groups indicated in Exhibit A, attached to this AFJPI.

Q. "Table" shall mean the table attached to this AFJPI as Exhibit B.

II. STIPULATIONS

2.1 The parties agree to entry of this Judgment and stipulate to the following for purposes of entry and enforcement of this Judgment:

- A. The Court has jurisdiction over the subject matter of this action.
- B. The Court has jurisdiction over the Defendants¹ in this matter.
- C. Venue is proper in Travis County, Texas.
- D. The activities of Defendants constitute trade and/or commerce.
- E. Entry of this Judgment is in the public interest.
- F. This Judgment is non-appealable.²
- G. Nothing in this Judgment releases or otherwise limits any private right of action.
- H. The Court shall have continuing jurisdiction to enforce this Judgment.
- I. Defendants acknowledge notice of this permanent injunction and acceptance of same; therefore no writ need be issued.

¹ Through execution of this AFJPI, Defendants do not waive their right to contest subject matter jurisdiction, personal jurisdiction or venue in any other proceeding except the instant cause.

² The parties waive all rights to appeal this Judgment except (i) if the Court materially modifies the terms of this Judgment; or (ii) with respect to any action stemming from compliance with this Judgment.

J. Defendants have consented to the entry of this AFJPI, without trial or adjudication of any issue of fact or law, solely in an effort to avoid the expense, burden, and uncertainty of litigation.

K. This AFJPI was jointly drafted in good faith by the State of Texas and Defendants,

L. It is the intent of the parties that the exclusive right to enforce a violation or failure to comply with the terms of this AFJPI shall be with the parties to this AFJPI.

2.2 The Attorney General of the State of Texas releases the Released Parties from all civil claims that were brought or could be brought under the DTPA, or brought or could be brought pursuant to other potentially applicable Consumer Protection Laws, by the Attorney General of the State of Texas at any time up to and including the effective date of this AFJPI, and which arise from or are related to the Covered Conduct, including (i) restitution or other monetary payments to consumers; and (ii) penalties, fines, restitution or other monetary payments to Texas.

2.3 The Attorney General of the State of Texas does not release the following claims, as to which the Released Parties reserve all defenses without prejudice:

- A. Any claims arising under State tax laws;
- B. Any claims for violations of antitrust or securities laws;
- C. Any criminal liability;
- D. Any claims that were brought or could be brought by the Attorney General of the State of Texas under the DTPA for injunctive relief or restitution or other monetary payments to consumers arising from or related to the Covered Conduct concerning the 3.0-liter Subject Vehicles;

E. Any and all civil claims unrelated to the Covered Conduct;

F. Any claims arising under State environmental laws and regulations, including laws and regulations regarding mobile source emissions, inspection and maintenance of auto vehicles and/or anti-tampering, including, but not limited to, any claims that are currently pending in the Environmental Protection Division's MDL, Cause No. D-1-GN-16-000370.

G. Any action to enforce the terms of this AFJPI.

2.4 The parties agree, and the Court acknowledges, that Defendants have consented to entry of this Judgment based on, among other things, the agreed release of claims set forth in paragraph 2.2.

III. ADMISSIONS

3.1 Volkswagen makes the following admissions:

A. Software in the 2.0 Liter Subject Vehicles enables the vehicles' Electronic Control Modules ("ECMs") to detect when the vehicles are being driven on the road, rather than undergoing Federal Test Procedures;

B. This software in the 2.0 Liter Subject Vehicles renders certain emission control systems in the vehicles inoperative when the ECM detects the vehicles are not undergoing Federal Test Procedures, resulting in emissions that exceed EPA-compliant and CARB-compliant (California Air Resources Board) levels when vehicles are driven on the road;

C. The Software referenced in 3.1 A. and B., above, was not disclosed in the Certificate of Conformity and Executive Order applications for the 2.0 Liter Subject Vehicles; and

D. As a result of 3.1 C, the design specifications of the 2.0 Liter Subject Vehicles, as manufactured, differ materially from the design specifications described in the Certificate of Conformity and Executive Order applications.

IV. INJUNCTIVE RELIEF

4.1 **IT IS ORDERED, ADJUDGED AND DECREED** that Defendants, their officers, agents, employees and attorneys, and those persons in active concert or participation with Defendants who receive actual notice of the AFJPI by personal service or otherwise, are hereby permanently **ENJOINED** from:

A. Advertising, marketing, offering for sale, selling, offering for lease, leasing, or distributing in Texas any vehicle that contains a Defeat Device;

B. Misrepresenting that a vehicle complies with any United States, Texas, or local emissions standard;

C. Making or providing to consumers deceptive emissions warranties;

D. Misrepresenting that a vehicle is environmentally friendly, eco-friendly, green or words of similar import;

E. Misrepresenting that a vehicle has low emissions, lower emissions than other vehicles, or a specific level(s) of emissions;

F. With respect to environmental or engineering attributes, misrepresenting the degree to which a vehicle maintains its resale value, comparative resale value, or any specific resale value; and

G. Engaging in any additional unfair or deceptive acts or practices prohibited by the DOJ Consent Decree, the FTC Order, or the CA AG Consent Decree.

V. CIVIL PENALTIES; ATTORNEYS' FEES AND COSTS

5.1 **IT IS ORDERED, ADJUDGED AND DECREED** that the State of Texas shall have Judgment and recover from Defendants the sum of FIFTY MILLION DOLLARS AND NO CENTS (\$50,000,000.00). FORTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$42,500,000.00) shall be allocated as a civil penalty pursuant to Texas Government Code § 402.007(b)(1), and not as compensation for actual pecuniary loss. The remaining amount shall be allocated pursuant to Texas Government Code § 402.006(c). Defendants shall pay these amounts to the Attorney General of the State of Texas by wire transfer within five days of entry of this AFJPI by the Court, payable to the "STATE OF TEXAS," bearing the reference AG# CX6669887904.

5.2 If Defendants reach a settlement with any State concerning the Covered Conduct on or before December 27, 2016, in which a settlement amount, except for reasonable attorneys' fees and costs, is calculated based on an assessment that is higher than \$1,100.00 per Subject Vehicle (utilizing the vehicle count in the Table), or in which the aggregate settlement amount, except reasonable attorneys' fees and costs, exceeds the amount which would result from an assessment of \$1,100.00 per Subject Vehicle sold or leased (utilizing the vehicle count in the Table), the total amount that Defendants shall pay to the State of Texas shall be calculated using the higher assessment amount within sixty (60) days of the date the relevant settlement agreement or judgment is executed by Defendants and the other party.³

VI. RESTITUTION REPORTING REQUIREMENTS

³ The sum paid to the State of Texas under this paragraph shall be calculated as follows: (i) the "Amount per Vehicle" shall first be calculated by dividing the other State's settlement amount, less reasonable attorneys' fees and costs, by the number of Subject Vehicles in the other State listed in the Table; (ii) if the Amount per Vehicle is less than or equal to \$1,100.00, then no payment shall be made; (iii) if the Amount per Vehicle exceeds \$1,100.00, then Volkswagen shall pay the State of Texas the Amount per Vehicle less \$1,100.00, multiplied by 42,812.

6.1 **IT IS ORDERED, ADJUDGED AND DECREED** that Defendants shall produce to the State of Texas: (i) any status reports to be provided by Defendants to the EPA, CARB, and the CA AG under Paragraph 7.4 of Appendix A to the DOJ Consent Decree; and (ii) any consumer name and address information to be provided by Defendants to the Notice Administrator under the Class Action Settlement Agreement. Defendants shall provide this information to the State of Texas at the same time they provide it to the EPA, CARB, the CA AG and the Class Action Settlement Agreement Notice Administrator. The State of Texas shall take all reasonable efforts to protect data consumers provide for any purpose related to this AFJPI. The representative of the State of Texas for the purpose of receiving this information shall be:

Chief of the Consumer Protection Division
Office of the Attorney General of the State of Texas

6.2 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants shall promptly respond to the State of Texas' reasonable inquiries about the status and calculation of consumers' claims and reimbursements for consumers from the State of Texas. The representative of Defendants for the purpose of responding to these inquiries shall be:

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Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Drive
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David M.J. Rein
William B. Monahan
Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004

VII. ADDITIONAL JUDGMENT TERMS

7.1 **IT IS ORDERED, ADJUDGED AND DECREED** that the State of Texas is authorized to monitor compliance with this AFJPI by any lawful method.

7.2 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the State of Texas shall have all writs of execution and other processes necessary to enforce this AFJPI.

7.3 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this AFJPI does not release or otherwise limit any private right of action.

7.4 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** this AFJPI is entered without trial or adjudication of any issue of fact or law or finding of liability of any kind.

7.5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this AFJPI does not enforce the laws of other countries, including the emissions laws or regulations of any jurisdiction outside the United States. Nothing in this AFJPI is intended to apply to, or affect, Defendants' obligations under the laws or regulations of any jurisdiction outside the United States.

7.6 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that nothing in this AFJPI shall be deemed to create any right in a non-party to enforce any aspect of this AFJPI or claim any legal or equitable injury for a violation of this AFJPI.

7.7 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that all costs of Court incurred in this case are taxed against the parties incurring same.

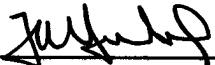
7.8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants shall not represent to the public that this Judgment constitutes approval by Plaintiff or this Court of any of Defendants' actions or business activities.

7.9 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that all relief not expressly granted herein is denied.

7.10 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that upon entry of this Judgment, all claims alleged in the Petition filed by the Consumer Protection Division of

the Attorney General in the above captioned action, unless otherwise specified by this Judgment,
are dismissed.

SIGNED this 17th day November, 2016.



JUDGE PRESIDING
TIM SULAR

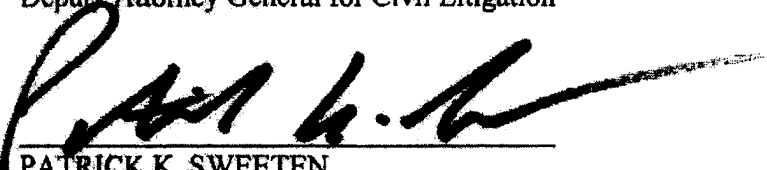
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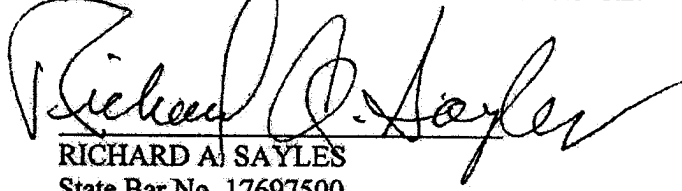
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AMERICA, LLC; AUDI AG; AND
VOLKSWAGEN GROUP OF AMERICA
CHATTANOOGA OPERATIONS, LLC**

EXHIBIT A

2.0 Liter Diesel Models

Model Year (MY)	EPA Test Group	Vehicle Make and Model(s)
2009	9VWXV02.035N 9VWXV02.0U5N	VW Jetta, VW Jetta Sportwagen
2010	AVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2011	BVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2012	CVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2013	DVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta VW Jetta Sportwagen, Audi A3
2014	EVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf,s VW Jetta, VW Jetta Sportwagen
2012 2013 2014	CVWXV02.0U4S DVWXV02.0U4S EVWXV02.0U4S	VW Passat
2015	FVGAV02.0VAL	VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportwagen, VW Jetta, VW Passat, Audi A3

3.0 Liter Diesel Models

Model Year (MY)	EPA Test Group	Vehicle Make and Model(s)
2009	9ADXT03.03LD	VW Touareg, Audi Q7
2010	AADXT03.03LD	VW Touareg, Audi Q7
2011	BADXT03.02UG BADXT03.03UG	VW Touareg Audi Q7
2012	CADXT03.02UG CADXT03.03UG	VW Touareg Audi Q7
2013	DADXT03.02U G DADXT03.03U	VW Touareg Audi Q7 Porsche Cayenne Diesel
2014	EADXT03.02UG EADXT03.03UG EPRXT03.0CDD EADXJ03.04UG	VW Touareg Audi Q7 Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5
2015	FVGAT03.0NU2 FVGAT03.0NU3	VW Touareg Audi Q7

	FPRXT03.0CDD FVG AJ03.0NU4	Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5
2016	GVGAT03.0NU2 GPRXT03.0CDD GVG AJ03.0NU4	VW Touareg Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5

EXHIBIT B

Subject Vehicles Sold and Leased, by State

State	Vehicles
AK	885
AL	4,654
AR	2,873
AZ	11,019
CA	85,285
CO	15,137
CT	11,911
DC	789
DE	1,732
FL	33,420
GA	17,157
HI	911
IA	3,349
ID	2,506
IL	29,823
IN	6,638
KS	2,306
KY	3,156
LA	3,875
MA	15,439
MD	16,326
ME	3,510
MI	11,915
MN	11,733
MO	8,758
MS	1,025
MT	1,931
NC	17,750
ND	692
NE	2,626
NH	6,356
NJ	17,352
NM	2,852
NV	5,264
NY	25,472
OH	13,998

OK	3,394
OR	13,015
PA	23,785
PR	398
RI	3,292
SC	6,206
SD	1,257
TN	11,448
TX	42,812
UT	7,877
VA	20,734
VT	2,772
WA	22,170
WI	11,902
WV	1,734
WY	370