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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: VOLKSWAGEN “CLEAN DIESEL” MDL No. 2672 CRB (JSC)
MARKETING, SALES PRACTICE, AND
PRODUCTS LIABILITY LITIGATION **CLASS ACTION**

This Document Relates To: Securities
Actions *City of St. Clair Shores*, 15-1228
(E.D. Va.) *Travalio*, 15-7157 (D.N.J.) *George
Leon Family Trust*, 15-7283(D.N.J.) *Charter
Twp. Of Clinton*, (15-13999 (E.D. Mich.)
Wolfenbarger, 15-326 (E.D. Tenn.)

[PROPOSED] ORDER APPROVING DISTRIBUTION PLAN

Plaintiffs moved this Court for an order approving a distribution plan for the Net Settlement Fund in the above-captioned class action (the “Action”). Having reviewed and considered all the materials and arguments submitted in support of the motion, including Plaintiffs’ motion and the Memorandum of Points and Authorities in Support Thereof and the Declaration of Alexander Villanova in Support of Plaintiffs’ Motion for Approval of Distribution Plan (the “Villanova Declaration”),

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1 1. This Order incorporates by reference the definitions in the Stipulation and
2 Agreement of Settlement dated August 27, 2018 (ECF No. 5267-1) (the “Stipulation”), and the
3 Villanova Declaration, and all terms used in this Order shall have the same meanings as defined
4 in the Stipulation or in the Villanova Declaration.

5 2. This Court has jurisdiction over the subject matter of the Action and over all parties
6 to the Action, including all Settlement Class Members.

7 3. Plaintiffs’ plan for distribution of the Net Settlement Fund to Authorized Claimants
8 is **APPROVED**. Accordingly:

9 (a) The administrative recommendations of the Court-approved Claims
10 Administrator, Epiq Class Action and Claims Solutions, Inc. (“Epiq”), to accept the Timely
11 Eligible Claims stated in Exhibit D to the Villanova Declaration and the Late But
12 Otherwise Eligible Claims stated in Exhibit E to the Villanova Declaration, are adopted;

13 (b) The Claims Administrator’s administrative recommendations to reject
14 wholly ineligible Claims, as stated in Exhibit F to the Villanova Declaration, are adopted;

15 (c) Epiq is directed to conduct an Initial Distribution of the Net Settlement
16 Fund, after deducting all payments previously allowed and the payments approved by this
17 Order, and after deducting the payment of any estimated taxes, the costs of preparing
18 appropriate tax returns, and any escrow fees, while maintaining a 5% reserve from the Net
19 Settlement Fund (the “Reserve”) to address any tax liability and claims administration-
20 related contingencies that may arise, as stated in paragraph 39(a) of the Villanova
21 Declaration (the “Distribution”). Specifically, as stated in paragraph 39(a) of the Villanova
22 Declaration: (1) Epiq will calculate award amounts for all Authorized Claimants as if the
23 entire Net Settlement Fund were to be distributed now. In accordance with the Court-
24 approved Plan of Allocation, Epiq will calculate each Authorized Claimant’s *pro rata* share
25 of the Net Settlement Fund as stated in subparagraph 39(a)(1) of the Villanova Declaration;
26 (2) Epiq will, in accordance with the terms of the Court-approved Plan of Allocation,
27 calculate the total amount each Authorized Claimant would recover in accordance with the
28 calculations stated in subparagraph (c)(1) above and then it will eliminate from the

1 distribution any Authorized Claimant whose total *pro rata* share of the Net Settlement Fund
2 is less than \$10.00. These Claimants will not receive any payment from the Net Settlement
3 Fund and will be so notified by Epiq; (3) After eliminating Claimants who would have
4 received less than \$10.00, Epiq will calculate the *pro rata* shares of the Net Settlement
5 Fund for Authorized Claimants who would have received \$10.00 or more (the “Distribution
6 Amount”); (4) 95% of the remaining balance of the Net Settlement Fund will be distributed
7 *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$10.00 or more
8 under subparagraph (c)(3) above. The remaining 5% of the Net Settlement Fund will be
9 held in the Reserve to address any tax liability and claims administration-related
10 contingencies that may arise. To the extent the Reserve is not depleted, the remainder will
11 be distributed in the “Second Distribution” described in subparagraph (f) below.

12 (d) In order to encourage Authorized Claimants to cash their checks promptly,
13 all Distribution checks will bear the following notation: “CASH PROMPTLY. VOID AND
14 SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER
15 ISSUE DATE].” Lead Counsel and Epiq are authorized to take appropriate action to locate
16 and contact Authorized Claimants who have not cashed their Initial Distribution checks
17 within said time as detailed in paragraph 39(b) footnote 4 of the Villanova Declaration;

18 (e) Authorized Claimants who do not cash their Initial Distribution checks
19 within the time allotted or on the conditions stated in paragraph 39(b) footnote 4 of the
20 Villanova Declaration will irrevocably forfeit all recovery from the Settlement, and the
21 funds allocated to these stale-dated checks will be available to be distributed to other
22 Authorized Claimants in any subsequent distribution or distributions. Similarly,
23 Authorized Claimants who do not cash their second or subsequent distributions (should
24 such distributions occur) within the time allotted or on the conditions stated in paragraph
25 39(b) footnote 4 of the Villanova Declaration will irrevocably forfeit any further recovery
26 from the Net Settlement Fund;

27 (f) After Epiq has made reasonable and diligent efforts to have Authorized
28 Claimants cash their Initial Distribution checks (provided in paragraph 39(b) footnote 4 of

1 the Villanova Declaration), but not earlier than nine (9) months after the Initial
2 Distribution, Epiq will, after consulting with Lead Counsel, conduct a second distribution
3 (the “Second Distribution”), in which any amount remaining in the Net Settlement Fund
4 after the Initial Distribution (including from the Reserve and the funds allocated for stale-
5 dated checks), after deducting Epiq’s fees and expenses incurred in administering the
6 Settlement for which it has not yet been paid (including Epiq’s estimated costs of the
7 Second Distribution) and after deducting the payment of any estimated taxes, the costs of
8 preparing appropriate tax returns, and any escrow fees, will be distributed to all Authorized
9 Claimants in the Initial Distribution who cashed their Initial Distribution check and are
10 entitled to receive at least \$10.00 from the Second Distribution based on their *pro rata*
11 share of the remaining funds. Additional distributions, after deduction of costs and
12 expenses as described above and subject to the same conditions, may occur thereafter in
13 six-month intervals until Lead Counsel, in consultation with Epiq, determines that further
14 distribution is not cost-effective;

15 (g) When Lead Counsel, in consultation with Epiq, determines that further
16 distribution of the funds remaining in the Net Settlement Fund is not cost-effective, if
17 sufficient funds remain to warrant the processing of Claims received after April 3, 2020,
18 those Claims will be processed, and any otherwise valid Claims received after April 3,
19 2020, as well as any earlier received Claims for which an adjustment was received after
20 April 3, 2020, which resulted in an increased Recognized Claim amount, will be paid in
21 accordance with subparagraph (h) below. If any funds remain in the Net Settlement Fund
22 after payment of these late or late-adjusted Claims, the remaining balance of the Net
23 Settlement Fund, after payment of any unpaid fees or expenses incurred in administering
24 the Net Settlement Fund and after the payment of any estimated taxes, the costs of
25 preparing appropriate tax returns, and any escrow fees, will be contributed to the Investor
26 Protection Trust.;

27 (h) No new Claims may be accepted after April 3, 2020, and no further
28 adjustments to Claims received on or before April 3, 2020, that would result in an increased

1 Recognized Claim amount may be made for any reason after April 3, 2020, subject to the
2 following exception. If Claims are received or modified after April 3, 2020, that would
3 have been eligible for payment or additional payment under the Plan of Allocation if timely
4 received, then, at the time that Lead Counsel, in consultation with Epiq, determines a
5 distribution is not cost-effective as provided in subparagraph (g) above, and after payment
6 of any unpaid fees or expenses incurred in connection with administering the Net
7 Settlement Fund and after deducting the payment of any estimated taxes, the costs of
8 preparing appropriate tax returns, and any escrow fees, these Claimants, at the discretion
9 of Lead Counsel, may be paid their distribution amounts or additional distribution amounts
10 on a *pro rata* basis, to the extent possible, that would bring them into parity with other
11 Authorized Claimants who have cashed all their prior distribution checks;

12 (i) All persons involved in the review, verification, calculation, tabulation, or
13 any other aspect of the processing of the Claims submitted, or who are otherwise involved
14 in the administration or taxation of the Settlement Fund or the Net Settlement Fund, are
15 hereby released and discharged from any and all claims arising out of that involvement,
16 and all Settlement Class Members and other Claimants, whether or not they receive
17 payment from the Net Settlement Fund, are hereby barred from making any further claims
18 against the Net Settlement Fund, Plaintiffs, Lead Counsel, the Claims Administrator, the
19 Escrow Agent, or any other agent retained by Plaintiffs or Lead Counsel in connection with
20 the administration or taxation of the Settlement Fund or the Net Settlement Fund, or any
21 other person released under the Settlement beyond the amounts allocated to Authorized
22 Claimants;

23 (j) All of Epiq's unpaid fees and expenses incurred in the administration of the
24 Settlement and estimated to be incurred in connection with the Distribution of the Net
25 Settlement Fund, as stated in the invoices attached as Exhibit G to the Villanova
26 Declaration, are approved and Lead Counsel is directed to pay the outstanding balance of
27 \$705,650.15 out of the Settlement Fund to Epiq; and
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1 (k) Unless otherwise ordered by the Court, Epiq may destroy the paper copies
2 of the Claims and all supporting documentation one year after the Initial Distribution, and
3 one year after all funds have been distributed may destroy electronic copies of the same.

4 4. This Court retains jurisdiction to consider any further applications concerning the
5 administration of the Settlement, and any other and further relief that this Court deems appropriate.

6 SO ORDERED this ___ day of _____ 2020.

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11 The Honorable Charles R. Breyer
12 United States District Judge
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