

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

<b>STATE OF OHIO, ex rel.</b>	:	
<b>DAVE YOST</b>	:	
<b>OHIO ATTORNEY GENERAL,</b>	:	<b>CASE NO. 16 CV 010206</b>
	:	
<b>Plaintiff,</b>	:	<b>JUDGE HOLBROOK</b>
	:	
<b>v.</b>	:	
	:	<b>CONSENT ORDER AND FINAL</b>
<b>VOLKSWAGEN AKTIENGESELLSCHAFT</b>	:	<b>JUDGMENT ENTRY</b>
<b>d/b/a VOLKSWAGEN GROUP and/or</b>	:	
<b>VOLKSWAGEN AG, et al.</b>	:	
	:	
<b>Defendants.</b>	:	

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The State of Ohio, by its Attorney General (“Plaintiff”/“the State”) and at the written request of the Director of the Ohio Environmental Protection Agency, has filed a complaint against Defendants Volkswagen Aktiengesellschaft d/b/a Volkswagen Group and/or Volkswagen AG; Audi AG; Volkswagen Group of America, Inc. d/b/a Volkswagen of America, Inc., or Audi of America, Inc.; Volkswagen of America, Inc.; Audi of America, LLC; Dr. Ing. h.c. F. Porsche AG d/b/a Porsche AG; and Porsche Cars North America, Inc. (“Defendants”) alleging violations of Ohio’s air pollution control laws under R.C. Chapter 3704 and the rules adopted thereunder concerning after-sale vehicles’ emissions controls. The Parties have consented to the entry of this Order.

Therefore, without trial, admission, or determination of any issue of fact or law and with the consent of the Parties hereto, it is ORDERED, ADJUDGED, AND DECREED:

**I. DEFINITIONS**

1. As used in this Order, the following terms are defined:

- a. “Defendants” mean Volkswagen Aktiengesellschaft d/b/a Volkswagen Group and/or Volkswagen AG; Audi AG; Volkswagen Group of America, Inc. d/b/a Volkswagen of America, Inc., or Audi of America, Inc.; Volkswagen of America, Inc.; Audi of America, LLC; Dr. Ing. H.C. F. Porsche AG d/b/a Porsche AG; and Porsche Cars North America, Inc.
- b. “Director” means the Director of the Ohio Environmental Protection Agency (“Ohio EPA”) or the Director’s designee.
- c. “Environmental Claims” mean claims or potential claims known or reasonably knowable to the State under all potentially applicable federal, state, and/or local environmental laws, rules, and/or regulations, including, without limitation, R.C. Chapter 3704, Ohio Adm.Code 3745-80-02, and laws, rules, and/or regulations regarding mobile source emissions, certification, reporting of information, inspection and maintenance of vehicles, and/or anti-tampering provisions, together with related common law and equitable claims.
- d. “Order” refers to this Consent Order.
- e. “Parties” means the State and Defendants.
- f. “Person” means an individual, public or private corporation, business trust, estate, trust, partnership, association, federal government or any agency thereof, municipal corporation or any agency thereof, political subdivision or any agency thereof, public agency, interstate body created by compact, any other entity, and other officers, agents, employees, attorneys, and/or those in active concert or participation with any of them.

- g. “State” means Plaintiff, the State of Ohio, including the Director, Ohio Environmental Protection Agency, or the Ohio Attorney General on behalf of the State, or any State entity named in the Complaint.

**II. JURISDICTION AND VENUE**

- 2. Defendants accept the personal jurisdiction, subject matter jurisdiction, and venue of this Court solely for purposes of the entry, enforcement, and modification of this Order and without waiving their rights to contest this Court’s jurisdiction or venue as to other matters unrelated to the entry, enforcement, and modification of this Order.

**III. PARTIES BOUND**

- 3. This Order shall apply to and be binding only upon the Parties.
- 4. If insolvency, bankruptcy, or other financial failure occurs, Defendants must pay the remaining unpaid balance of the total monetary relief.

**IV. EFFECT OF SETTLEMENT AND RESERVATION OF RIGHTS**

- 5. Plaintiff alleges that Defendants are responsible for alleged violations of the air pollution control laws of the State of Ohio under R.C. Chapter 3704.
- 6. Defendants represent that they have entered into this Order for the purpose of settling and compromising disputed claims without having to incur the burdens and expense of contested litigation. Defendants deny liability as to all claims alleged in the above-captioned matter and First Amended Complaint. This Order is not an admission by Defendants of liability of any kind. Except as specified in Paragraph 13, nothing in this Order shall affect Defendants’ rights to take legal or factual positions in defense of actions or litigation, or other legal, administrative or regulatory proceedings.

7. In consideration of the payment provided for below, the State hereby fully, finally, irrevocably, and forever releases Defendants, their affiliates, and any of Defendants' or their affiliates' former, present, or future owners, shareholders, directors, officers, employees, attorneys, parents, subsidiaries, predecessors, successors, insurers, dealers, agents, assigns and representatives (collectively, "Released Defendants") from any and all Environmental Claims arising out of or in any way related to any known or reasonably knowable claims that are, were, or could have been asserted by the State (whether in the State's sovereign enforcement capacity or as *parens patriae* on behalf of citizens of the State) in this action. For the avoidance of doubt, the Parties agree that this Order fully extinguishes (i) the reservations set forth in Paragraph 8(B)(vi) of the June 28, 2016 Partial Settlement Agreement among Defendants and a 43-state multistate coalition, including the State and (ii) the reservations set forth in Paragraph 13(B)(vi) of the July 17, 2017 Final Judgment by Consent Regarding Certain Consumer Protection Claims Nunc Pro Tunc between Defendants, certain of their affiliates, and the State.

8. Nothing in this Order shall limit the authority of the State of Ohio to:
- a. Seek any legal, equitable, and/or monetary relief from Defendants or any other appropriate person for future violations not alleged in the above-captioned action; and/or
  - b. Enforce this Order through a contempt action or otherwise seek relief for violations of this Order.

9. This Order does not waive, abridge, settle, compromise, or otherwise impact any other claims in law or equity not related to Defendants' activities alleged in the State's First Amended Complaint that the State of Ohio or other persons may have against Defendants.

10. Nothing in this Order shall constitute or be construed as a covenant not to sue and/or a release against any person other than the Released Defendants.

11. Nothing in this Order shall relieve Defendants of their obligations to comply with applicable federal, state, or local statutes, regulations, rules, or ordinances.

12. The Parties agree that this Order does not enforce the laws of other countries, including the emissions laws or regulations of any jurisdiction outside the United States. Nothing in this Order is intended to apply to, or affect, Defendants' obligations under the laws or regulations of any jurisdiction outside the United States. At the same time, the laws and regulations of other countries, the United States, other States, or localities shall not affect Defendants' obligations under this Order.

13. Nothing herein shall restrict the right of Defendants to raise any administrative, legal, or equitable defense with respect to such further actions reserved by the State in this Order. However, with respect to the actions reserved by the State in Paragraph 8, Defendants shall not assert and/or maintain any defense or claim of waiver, *res judicata*, collateral estoppel, issue preclusion, claim splitting, or other defenses based on any contention that Plaintiff's claims in any subsequent judicial or administrative proceeding could or should have been brought in this case.

14. Nothing in this Order shall be deemed to create any right in a non-party to enforce any aspect of this Order or claim any legal or equitable injury for a violation of this Order. The exclusive right to enforce any violation or breach of this Order shall be with the Parties.

#### **V. MONETARY PAYMENT**

15. Defendants shall pay \$3,505,502 (the "Settlement Amount"), subject to the provisions in this Order. This sum amounts to \$442 per car for the 7,931 cars that received the post-sale updates

challenged in the First Amended Complaint in Ohio. The Settlement Amount shall be paid as follows:

- a. Defendants shall pay \$1,752,751 within 15 business days of either the Effective Date of this Order or the receipt of signed wire transfer instructions from the Ohio Attorney General's Office, whichever is later, to Ohio EPA by wire transfer payable to "Treasurer, State of Ohio" for environmental protection purposes advanced by Ohio EPA. Defendants shall deliver the payment in accordance with signed wiring instructions from the Ohio Attorney General's Office.
- b. Defendants shall also pay \$1,752,751 within 15 business days of either the Effective Date of this Order or the receipt of signed wire transfer instructions from the Ohio Attorney General's Office, whichever is later, to the Ohio Attorney General's Office by wire transfer payable to "the Ohio Attorney General's Office" for such environmental enforcement purposes deemed appropriate by the Ohio Attorney General's Office. Defendants shall deliver the payment in accordance with signed wiring instructions from the Ohio Attorney General's Office.

16. If the Settlement Amount is not received by the State in accordance with the terms of this Consent Order, the remaining balance unpaid shall accrue interest, starting from one day following the payment deadlines set forth in the previous Paragraph, at the rate per annum required by R.C. 5703.47 calculated as of the Effective Date of this Order.

17. If any amount is not paid in accordance with the terms of this Consent Order, the Attorney General may collect that amount under R.C. 131.02. Pursuant to R.C. 109.081, in addition to the outstanding balance due under this Consent Order, in the event that the Attorney General is required to initiate proceedings under R.C. 131.02 to recover any amount that is not paid in

accordance with the terms of this Consent Order, collection costs of ten percent of such unpaid amount shall be owed and fully recoverable from Defendants to be paid into the State Treasury to the credit of the Attorney General Claims Fund.

18. The State reserves the right to file a certificate of judgment lien against Defendants for the remaining unpaid balance of the Settlement Amount, plus applicable statutory interest and collection costs, if the Settlement Amount is not paid according to the schedule in this Order.

19. For tax purposes, Defendants agree that they will neither capitalize into inventory or basis nor deduct the cost of any payment required under this Section V.

**VI. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS**

20. Performance of the terms of this Order by Defendants is not conditioned on the receipt of any private, federal or state grants, loans, and/or funds. In addition, Defendants' performance is not excused by failing to obtain or any shortfall of any private, federal or state grants, loans and/or funds or by the processing of any applications for the same.

**VII. MODIFICATION**

21. No modification shall be made to this Order without the written agreement of the Parties and the Court.

**VIII. MISCELLANEOUS**

22. The provisions of this Order shall be construed in accordance with the laws of the State of Ohio.

23. Any acceptance by the State of Ohio of any payment due subsequent to the time that the payment is due under this Order shall not relieve Defendants from the obligations created by this Order.

24. This Order may be executed by the Parties in one or more counterparts, all of which taken together shall constitute one and the same instrument.

25. Each party shall bear its own attorneys' fees.

**IX. RETENTION OF JURISDICTION**

26. This Court shall retain jurisdiction for the purpose of administering and enforcing this Order.

**X. ENTRY OF ORDER AND FINAL JUDGMENT BY CLERK**

27. Under Rule 58 of the Ohio Rules of Civil Procedure, upon signing this Order by the Court, the Clerk is directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the Clerk is directed to serve upon all Parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Civ.R. 5(B) and note the service in the appearance docket. The failure of the Clerk to serve notice does not affect the validity of this Order.

**XI. EFFECTIVE DATE**

28. This Consent Order shall be effective upon the date of its entry by the Court.

**XII. COURT COSTS**

29. Defendants shall pay all court costs of this action.

**XIII. AUTHORITY TO ENTER INTO THE ORDER**

30. Each signatory represents and warrants he or she has been duly authorized to sign this document and is fully authorized to agree to its terms and conditions.

**IT IS SO ORDERED.**

\_\_\_\_\_  
**JUDGE HOLBROOK**

\_\_\_\_\_  
**DATE**

**APPROVED AND AGREED TO BY:**

DAVE YOST  
OHIO ATTORNEY GENERAL



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and Audi of America, LLC*

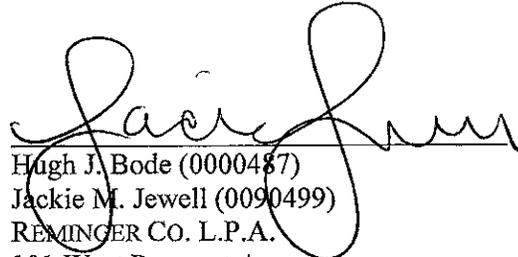
**APPROVED AND AGREED TO BY:**

DAVE YOST  
OHIO ATTORNEY GENERAL

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Franklin County Court of Common Pleas

**Date:** 01-20-2022  
**Case Title:** OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -VS-  
VOLKSWAGEN AKTIENGESELLSCHAFT  
**Case Number:** 16CV010206  
**Type:** CONSENT JUDGMENT

It Is So Ordered.

A handwritten signature in black ink, reading "Michael J. Holbrook", is written over a blue circular official seal. The seal contains the text "COMMON PLEAS", "FRANKLIN COUNTY, OHIO", and "ALL THINGS ARE POSSIBLE".

/s/ Judge Michael J. Holbrook

Court Disposition

Case Number: 16CV010206

Case Style: OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -  
VS- VOLKSWAGEN AKTIENGESELLSCHAFT

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes