

September 12, 2016

To: U.S. District Court, Northern District of California
Clerk of the Court/Judge Charles R. Breyer
Phillip Burton Federal Building & United States Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

From: R. Kent Roberts, an original purchaser and current owner of a 2013 VW Passat TDI SE

Re: Objection To Class Action Settlement - Sales Tax And Other Fees

Thank you for allowing comments on and objections to the proposed class action settlement related to VW and Audi 2.0-liter TDI vehicles. I trust that this comment-period is not merely a formality, and that you will give ample consideration to the following.

For reasons outlined below, I object to the proposed Class Action Settlement in *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, No. 3:15-md-2672 (N.D. Cal.). I purchased a VW Passat TDI covered by the proposed settlement, I continue to own that VW Passat, and I object for two reasons to the proposed settlement that was outlined in a document I received from VW in August 2016. Fortunately, with some modification of the proposed settlement, these two reasons can be easily addressed, and doing so will result in a fairer settlement agreement. I am hopeful that you will modify the proposed settlement to take into account taxes and other government-imposed fees paid upon purchase or lease of an affected vehicle.

Objection #1:

The proposed class action settlement does not take into account that some class members paid sales tax in conjunction with the purchase of their VW diesel vehicles, and some did not. As such, some class members may be fairly compensated, while others are not.

Objection #2:

The proposed class action settlement does not take into account that many members of the class will not be able to trade in their VW diesel vehicles. This negatively impacts at least some class members.

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Discussion of Objection #1:

The settlement outline provided by VW to class members indicates that the amount of sales tax paid by class members is not a factor in determining the buyback amount. The sales tax can be a significant amount. For example, I paid \$2308.78 in sales tax when I purchased my VW Passat, and this sales tax is a cost that appears to have been overlooked in the proposed settlement. For example, a similarly situated purchaser of a VW Passat residing in a jurisdiction where sales tax is not imposed (e.g. the State of Oregon), would not have paid sales tax for her Passat. If we assume that the hypothetical Oregon-purchaser is being fully and fairly compensated under the proposed settlement, then purchasers that paid sales tax in conjunction with the purchase of their VW vehicles are not being fully and fairly compensated. The same analysis may hold true for other government-imposed fees (e.g. title fees) that arose as a result of the purchase or lease of an affected vehicle. Full reimbursement of taxes and other government-imposed fees ought to be added to the proposed buyback amounts.

Discussion of Objection #2:

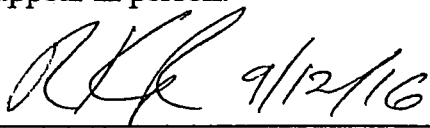
Since the buyback option will initiate a transaction between VW and the eligible owner, there will be no opportunity to take advantage of rules that benefit auto owners upon trading in a vehicle. For example, in New York State, when the owner of a vehicle trades in his existing vehicle as part of a transaction to purchase a different vehicle, the sales tax is computed on the difference in price between the two vehicles. To illustrate how this works, assume that I trade in my old vehicle worth \$13000 as part of a transaction to purchase a new vehicle worth \$27000. In New York State, the sales tax on that hypothetical transaction is computed using \$14000 - the difference between \$27000 and \$13000. By opting to have VW buy back my VW Passat, I will have no vehicle to trade in, and I will therefore pay sales tax on the full value of the car that I purchase to replace my VW Passat. In effect, I will be forced to pay sales tax and other government-imposed fees **twice** in order to replace a vehicle that I had hoped to drive for many years. In addition, if we assume that the hypothetical Oregon-purchaser (above) is being fully and fairly compensated under the proposed settlement, then purchasers that paid sales tax in conjunction with the purchase of their VW vehicles are not being fully and fairly compensated. For these additional reasons, full reimbursement of the sales tax paid ought to be added to the proposed buyback amounts.

Summary: Members of the class will not be fairly or fully compensated unless the taxes they paid are reimbursed as part of the buyback option. The same holds true

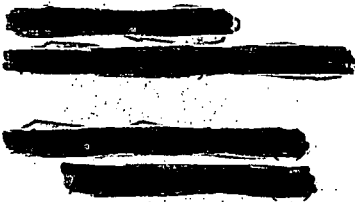

for other government-imposed fees paid when any of the affected vehicles was purchased or leased. Any settlement approved by the Court will be unfair to a large number of class members if the settlement fails to reimburse class members for government-imposed fees (e.g. sales tax) paid in conjunction with acquiring their VW vehicles. Please modify the proposed settlement to include an additional amount equal to the sales tax and other government-imposed fees paid by the owners/lessees in conjunction with the purchase/lease of a vehicle covered by the settlement.

Thank you for considering these objections and my recommended solution. I look forward to reviewing the modified settlement agreement.

Should it please the Court, I am happy to discuss these comments by telephone or appear in person.

 9/12/16

R. Kent Roberts


VIN: 
Dates Owned: Feb. 9, 2013 to present

cc:

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