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to Government Code § 6103

8 *Attorneys for the People of the State of California*

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO

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14
15 **THE PEOPLE OF THE STATE OF
CALIFORNIA,**

16 Plaintiff,

17 v.

18
19 **VITOL INC., SK ENERGY AMERICAS,
INC., SK TRADING INTERNATIONAL
20 CO. LTD.; AND DOES 1- 30, INCLUSIVE,**

21 Defendants.

Case No. CGC-20-584456

22
23 **DECLARATION OF MICHAEL
JORGENSEN IN SUPPORT OF MOTION TO
24 GIVE NOTICE OF PARENS PATRIAE
SETTLEMENT**

25 Date: August 2, 2024
26 Time: 10:00 a.m.
27 Dept: 613
28 Judge: The Honorable Andrew Y.S.
Cheng
Action Filed: May 4, 2020

23 I, Michael Jorgenson, declare as follows:

24 1. I am an attorney admitted to practice in the State of California. I am a Supervising
25 Deputy Attorney General with the Antitrust Section in the California Attorney General's Office. I
26 make this declaration from my personal knowledge, and, if called as a witness, I could
27 competently testify as to the facts contained herein.
28

1 2. I have been a practicing attorney for 25 years, including 12 years experience in the
2 Antitrust Law Section of the California Office of the Attorney General. As a senior attorney in
3 the Antitrust Law Section, I have worked on a number of complex antitrust matters, including *In*
4 *re: Cathode Ray Tube (Crt) Antitrust Litigation, In re: Automotive Parts Antitrust Litigation,*
5 *State of California v. Sutter Health, and New York et al. v. Deutsche Telekom.* As a supervising
6 attorney in the present action, I have closely participated in all facets of this case, including
7 motion practice, discovery, and settlement negotiations.

8 3. A true and correct copy of the Settlement Agreement with Vitol Inc., SK Energy
9 Americas, Inc., and SK Trading International Co. Ltd (“Defendants”) is attached as Exhibit A.

10 4. The Attorney General opened a formal investigation into market-spiking conduct
11 in the California gasoline market that occurred following the explosion at the Torrance refinery in
12 February 2015, using, inter alia, investigatory powers under California Government Code section
13 11180 *et seq.*, by issuing investigative subpoenas on a number of market participants. The
14 Attorney General’s Office corresponded with more than 20 different entities and agencies,
15 obtained more than 2.6 million documents, and conducted witness interviews.

16 5. On May 4, 2020, the Attorney General sued Vitol Inc., SK Energy Americas, Inc.,
17 and SK Trading International Co. Ltd, alleging an illegal conspiracy between Defendants
18 whereby Defendants—large multinational oil and gas trading conglomerates—manipulated the
19 California-specific gas market for their own monetary benefit. The People alleged that
20 Defendants traded small volumes of gasoline products at high prices with the intent of spiking the
21 California gasoline price indices so as to benefit their own large volume sales of gasoline
22 products that were pegged to those indices.

23 6. On the day after the Attorney General filed a complaint, private plaintiffs began to
24 file a series of class action complaints that were eventually consolidated into the federal action *In*
25 *re California Gasoline Spot Market Antitrust Litigation*, Case No. 20-cv-03131 in United States
26 District Court for the Northern District of California.

27 7. The Attorney General prevailed in initial motion practice, defeating Defendants’
28 demurrer as well as SKTI’s motion to quash service of summons for lack of personal jurisdiction,

1 the latter of which required additional briefing, jurisdictional discovery, including depositions of
2 foreign witnesses, three appellate briefs, and appellate argument. Jurisdictional discovery lasted
3 nearly six months and was plagued by late-produced records and additional briefing.

4 8. Fact discovery lasted approximately two and a half years, during which the parties
5 produced more than 2 million documents, subpoenaed more than 500,000 documents from
6 approximately 30 third-parties, and conducted more than 50 depositions. Discovery was
7 coordinated with the federal class action, with the Attorney General's Office taking the lead on 22
8 depositions. The parties each served multiple sets of requests for production, interrogatories, and
9 requests for admission, which required the Court to preside over seven informal discovery
10 conferences and two motions to compel.

11 9. The Attorney General's Office also reviewed numerous documents, deposition
12 transcripts, and expert reports produced in the parallel federal class action proceeding.

13 10. The Attorney General's Office served four opening expert reports, three rebuttal
14 reports, and four reply reports. Defendants collectively served five opening expert reports, five
15 rebuttal reports, and five reply reports. Among the expert reports prepared by the Attorney
16 General's Office was the opinion of Dr. Leslie Marx, who calculated the duration and extent of
17 the impact of the challenged conduct on the retail price of gasoline. Dr. Marx opined that \$127.8
18 million in harm from inflated gas prices was attributable to Defendants' conduct, with the harm
19 occurring during separate episodes of retail price inflation between February 20 and November
20 10, 2015.

21 11. The parties conducted expert discovery, and the Attorney General's Office had
22 taken or defended six expert depositions by the time the parties reached a tentative settlement.

23 12. Defendants filed nine separate motions for summary adjudication or summary
24 judgment in March and April 2023. Defendants argued that a host of legal issues precluded
25 liability under the Cartwright Act, including that the People lacked standing to bring Cartwright
26 Act claims premised on the impact of defendant's alleged index-manipulation conduct in the
27 market for retail gasoline, i.e., "umbrella damages," and that the Cartwright Act's *parens patriae*
28 provision allowing for proof of aggregate damages did not comport with due process. Defendant

1 SKTI also moved for summary judgment, contending that the evidence adduced by the People
2 was insufficient to prove alter ego or agency liability. Finally, Defendants also filed a *Sargon*
3 motion to exclude the People’s causation expert.

4 13. Notwithstanding the overwhelming evidence of Defendants’ participation in the
5 gas-price manipulation conspiracy, the Attorney General recognized that a number of challenges
6 and unsettled legal issues could potentially reduce Defendants’ liability and recoverable damages.
7 Specifically, the Attorney General faced challenges associated with disentangling the effects of
8 Defendants’ conduct on the spot market price of gasoline products; the inherent difficulty of
9 piecing together the actions of individuals nine years ago based on a written record with
10 significant gaps; the inherent risk of putting on a jury trial, exacerbated here due to the absence of
11 cooperating witnesses; and, even if the Attorney General were to prevail at trial, the likelihood of
12 appeals, particularly as to first-impression legal issues as to aggregate and “umbrella” damages in
13 *parens patriae* claims raised in Defendants’ motions for summary adjudication.

14 14. Further, discovery had revealed that Defendants were no longer participating in the
15 California gas trading market, significantly lessening the need for injunctive relief. The
16 intervening passage of landmark California legislation of SBx1-2 in March 2023, which the
17 Attorney General co-sponsored and which imposes monitoring and reporting obligations on
18 market participants that engage in trading (including Defendants, were they to reenter the
19 market), further obviated the need for forward-looking relief and provided assurance that such
20 conduct is less likely to occur (by Defendants, as well as other market participants) in the future.

21 15. On May 2, 2023, the parties attended a mediation in front of the Honorable Layn
22 Phillips. Following a highly contested 12-hour in-person mediation, the parties reached a
23 tentative settlement framework. Negotiations on a detailed term sheet continued over numerous
24 telephone conferences and exchanges of written communications with the mediator’s team over
25 the following week. After extensive back and forth negotiations, a final settlement was ultimately
26 signed by all parties on October 11, 2023 (the “Settlement”) in which the Defendants agreed to
27 pay \$50 million to settle the Attorney General’s claims.

28

1 16. The Settlement Agreement allocates 37.5 million dollars to the Attorney General’s
2 *parens patriae* claims under the Cartwright Act. 12.5 million dollars is allocated to civil penalties
3 under the Unfair Competition Law. Per statute, the civil penalties are split between the County of
4 San Francisco, where the case was filed, and the Unfair Competition Law Fund managed by the
5 Attorney General’s Office, for future unfair competition and consumer protection enforcement.

6 17. It is the view of the Attorney General’s Office that the negotiated Settlement
7 represents the best outcome for consumers. The 12.5 million dollars allocated to civil penalties is
8 a significant recovery under the UCL, which assesses penalties “not to exceed two thousand five
9 hundred dollars . . . for each violation.” Bus. & Prof. Code § 17206, subd. (a). The Cartwright
10 Act allocation represents approximately 29.3% of consumer damages. In sum, the Attorney
11 General’s Office believes that the Settlement appropriately reflects the trade-off between the
12 potential recovery at trial, and obtaining a resolution that provides immediate relief to California
13 consumers, in light of the risks of continued litigation.

14 18. The Attorney General’s Office has developed a distribution plan that provides
15 direct compensation to the California consumers that the Attorney General determined to be
16 injured by Defendants’ conduct, corresponding to the findings by the People’s expert witnesses.
17 Following the notice and claims process described in the Allocation Plan and Notice Program,
18 which is attached as Exhibit B, the Attorney General proposes to distribute the entirety of the 37.5
19 million dollar *parens patriae* fund, net of costs of administration, notice, and attorneys’ fees and
20 costs, to consumers.

21 19. The Allocation Plan and Notice Program reflects the Attorney General’s judgment
22 as to the equitable distribution of funds to consumers injured by the Defendants’ conduct. All
23 California natural persons who purchased gas in Southern California between February 20 and
24 November 10, 2015 (“Eligible Consumers”) may file a claim to obtain their pro rata portion of the
25 fund. The scope of Eligible Consumers corresponds to the findings of the experts retained by the
26 Attorney General, who concluded, as reflected in their expert reports, that Defendants’ conduct
27 inflated the price of retail gas in Southern California (10 counties) in specified Retail Impact
28 Periods occurring between February 20 and November 10. Although the Attorney General’s

1 experts concluded that the price of retail gas was inflated on 164 of the 264 days between
2 February 20 and November 10, the Attorney General determined not to limit the eligibility period
3 to dates with greater specificity in light of the fact that it is impractical to require consumers to
4 identify with greater specificity the dates on which they purchased gas nine years ago.

5 20. Because there is no database or other source of information that identifies Eligible
6 Consumers, distribution must rely on a claims process. The Attorney General has retained Verita
7 Global, LLC to assist with notice, claims administration, and distribution. The notice plan, as
8 described in the Allocation Plan and Notice Program and the declaration of Zach Cooley on
9 behalf of Verita Global (“Cooley Declaration”), has been designed to ensure that all California
10 residents are notified of the Settlement, with a particular focus on Californians that are current or
11 former residents of Southern California and thus are most likely to be Eligible Consumers.

12 21. The notice program contains seven components: (1) postcard notice to households
13 located in 10 Southern California counties; (2) email notice to individuals with email addresses
14 linked to the 10 Southern California counties during 2015; (3) publication notice via placement in
15 print and digital newspapers; (4) digital media notice via online digital advertising targeted at
16 users that can be geolocated to California recently; (5) nationwide press release circulated to
17 media outlets and journalists; (6) a press release issued by the Attorney General’s office and
18 published on the Attorney General’s website; and (7) a website, www.CalGasLitigation.com,
19 which all other forms of notice will link to, and which provides the long form notice, detailed
20 information about the litigation and settlement, relevant case filings, and claim and exclusion
21 forms. Copies of the postcard notice, email notice, publication notice, digital media notice, and
22 long form notice are attached to the Cooley Declaration.

23 22. In order to minimize the barriers to recover monetary benefits from the Settlement,
24 no proof of purchase is required to file a claim. Instead, claimants must confirm their status as
25 California natural persons who purchased gas between February 20 and November 10, 2020 in
26 Southern California under penalty of perjury. The Attorney General believes that requiring
27 documentation of gas purchases occurring nine years ago would be impractical and deter Eligible
28 Consumers from receiving benefits under the Settlement. To minimize the possibility of fraud,

1 Eligible Consumers will be required to provide a California drivers' license number which can be
2 cross-checked against available databases (or attest that they do not have one). This additional
3 requirement is reasonable given the fact that Eligible Consumers all purchased gasoline at retail
4 and thus are very likely to be legal drivers with a drivers' license.

5 23. All Eligible Consumers will receive a *pro rata* portion of the net *parens patriae*
6 fund. An individual's monetary recovery will not increase or decrease based on the amount of
7 gas purchased. The Attorney General's office has determined that in light of the potential
8 inaccuracy of self-reporting, the potential motivation to inflate such reporting, and the fact that
9 the vast majority of consumers likely purchased gasoline within a normal distribution function
10 (that did not vary by orders of magnitude), providing an equal benefit for each Eligible Consumer
11 is the most reasonable way to structure the distribution.

12 24. To the extent that any funds cannot be distributed to consumers (due to uncashed
13 checks or similar), the Attorney General will provide a *cy pres* award to a University of California
14 or California State University Study to fund a study and develop tools to detect and deter future
15 market manipulation, or increase the study of the California gas and transportation energy market
16 in California. In selecting *cy pres* recipients, the Attorney General follows a policy to ensure a
17 selection of geographically diverse recipients who will use the grants for the indirect benefit of
18 natural persons, government entities, or the economy of the State as well as to avoid self-dealing.
19 It is the Attorney General's Office position that it would be premature to select *cy pres* recipients
20 before knowing the amounts of *cy pres* funds available or when those funds would be available.

21 25. The attorneys' fees and litigation costs requested by the Attorney General's Office
22 will be itemized in a forthcoming motion to preceding the final approval hearing, but will not
23 collectively exceed 25% of the \$37.5 million Cartwright Settlement Fund.

24 26. The People understand that counsel for the putative federal class action in the
25 Northern District of California, *In re California Gasoline Spot Market Antitrust Litigation*, Case
26 No. 20-cv-03131, in which a Settlement Agreement was signed on May 30, 2024, will seek a fee
27 award out of the Cartwright Act Settlement Fund in this case. The People take no position at this
28 time on the legal propriety of such a motion, but note that putative federal class counsel

1 materially contributed to fact and expert development that benefitted the natural persons whose
2 claims will be released by the Settlement.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct.

5 Executed this 9th of July, 2024, in San Francisco, California.

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By: 

Jorgenson Declaration

Exhibit A

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is made and entered into this 11th day of October, 2023 (the “Effective Date”) by and among Vitol Inc. (“Vitol”), SK Energy Americas, Inc. (“SKEA”), SK Trading International Co. Ltd. (“SKTI”) (collectively, “Defendants”) and the Attorney General of California (“Attorney General”), on behalf of the State of California and as *parens patriae* on behalf of natural persons who are residing in California.

WHEREAS, the Attorney General is prosecuting *The People of the State of California v. Vitol Inc. et al.*, Case No. CGC-20-584456 (S.F. Super. Ct.) (the “Action”), alleging violations of the Cartwright Act and California’s Unfair Competition Law;

AND WHEREAS, the Attorney General filed the Complaint (“Complaint”) on May 4, 2020, bringing claims under the Cartwright Act and the Unfair Competition Law in the Action in the name of the People of the State of California, including in his role as *parens patriae* under the Cartwright Act pursuant to the authority granted to the Attorney General under Cal. Bus. & Prof. Code § 16760.

AND WHEREAS, Defendants filed the Cross-Complaint (“Cross-Complaint”) on March 25, 2021, bringing claims for declaratory judgment;

AND WHEREAS, the Parties have authority to settle this action and release the respective claims that they have alleged;

AND WHEREAS, the Parties have engaged in good faith, arms-length negotiations to agree on the terms contained in this Settlement Agreement;

AND WHEREAS the Defendants deny any wrongdoing or illegal conduct and this Settlement Agreement does not constitute any admission by the Defendants that the law has been violated or of any issue of fact or law;

AND WHEREAS, the Parties agree to be bound by the provisions of this Settlement Agreement pending its approval by the Court;

NOW THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned that the Complaint and Cross-Complaint be settled, compromised, and dismissed on the merits with prejudice and except as hereinafter provided, subject to the approval of the Court as it concerns the Complaint, on the following terms and conditions, and incorporating the following clauses:

1. Definitions

As used in this Settlement Agreement, the following terms have the meanings specified below:

- 1.1. “Action” means *The People of the State of California v. Vitol Inc. et al.*, Case No. CGC-20-584456 (S.F. Super. Ct.).

- 1.2. “Attorney General” or “Plaintiff” means the Attorney General of California, including in his role as *parens patriae* under the Cartwright Act on behalf of natural persons residing in California.
- 1.3. “Business Days” means weekdays but excludes any state or federal holidays that fall on a weekday.
- 1.4. “Complaint” means the complaint filed by the Attorney General in this Action on May 4, 2020.
- 1.5. “Cross-Complaint” means the cross-complaint filed by Defendants in this Action on March 25, 2021.
- 1.6. “Court” means the Superior Court of the State of California for the County of San Francisco.
- 1.7. “Defendants” means Vitol Inc., SK Energy Americas, Inc., and SK Trading International Co. Ltd.
- 1.8. “Defendant Releasees” means Defendants Vitol Inc., SK Energy Americas, Inc., and SK Trading International Co. Ltd.; and Brad Lucas, John Addison, David Niemann, Shelly Mohammed, and any of the following, whether current or former: Defendants’ directors, officers, employees, agents, assigns, alter egos, parents, subsidiaries, affiliates, predecessors, successors, consultants, and representatives.
- 1.9. “Effective Date” means the latest date of signature of this Settlement Agreement by any Party.
- 1.10. “Escrow Accounts” means two interest-bearing accounts maintained at a bank or other financial institution.
- 1.11. “Escrow Agent” means The Huntington National Bank, or such successor escrow agent agreed upon by the Parties or appointed by the Court.
- 1.12. “Parties” means the Defendants and the Attorney General.
- 1.13. “Plaintiff Releasor” means the Attorney General, bringing suit in the name of the People of the State of California, including in his role as *parens patriae* for natural persons residing in the state, as pleaded in the Complaint in this Action.
- 1.14. “Relevant Products” means the following:
 - 1.14.1. CARBOB Regular, which is a regular grade blendstock for oxygenate blending to which the addition of 10% ethanol will meet the quality mandated by the California Air Resources Board.

- 1.14.2. CARBOB Premium, which is a premium grade blendstock for oxygenate blending to which the addition of 10% ethanol will meet the quality mandated by the California Air Resources Board.
- 1.14.3. Gasoline Blending Component, Gasoline Blendstocks, or Gasoline Component, each of which means a hydrocarbon used for blending finished gasoline, or a gasoline to be blended with an oxygenate such as CARBOB Regular, and include alkylate.
- 1.14.4. Light Petroleum Products, which are liquid transportation fuels, including finished gasolines (conventional and reformulated), Gasoline Blendstocks, and diesel fuel (ultra-low sulfur and higher sulfur content).
- 1.14.5. Spot Gasoline Products, which are various types and grades of gasoline sold in the spot market.
- 1.15. “Settlement Amount” means \$50 million, collectively paid by Defendants.
- 1.16. “Settlement Funds” means the Settlement Amount deposited into the Cartwright Act Settlement Fund and Section 17206 Settlement Fund pursuant to Section 2 and any interest thereon.
- 1.17. “Settlement Fund Administration Costs” means costs associated with providing notice of the Settlement Agreement, processing claims and requests for exclusion, disbursing the Settlement Funds, and performing other tasks as required to administer the Settlement Funds.

2. Settlement Funds

- 2.1. Subject to the provisions hereof, and in full, final, and complete settlement of the Action, Defendants shall pay the Settlement Amount into the Escrow Accounts within 15 Business Days after the Effective Date. For the avoidance of doubt, under no circumstances will Defendants be required to pay any further amount in settlement of this action.
- 2.2. Defendants shall pay the portion of the Settlement Amount to the respective Escrow Accounts for the Cartwright Act Settlement Fund and Section 17206 Settlement Fund pursuant to the allocation in relation to the claims asserted, as reflected in Exhibit A.
- 2.3. Interest generated from the funds in the Escrow Accounts will accrue to the benefit of the party entitled to the Settlement Amount.
- 2.4. If the Settlement Agreement is terminated or not approved by the Court, the Settlement Funds shall revert to the Defendants according to their contribution. In the event that any such reversion to Defendants occurs, Defendants shall be responsible for any taxes or other legal requirements related to such payment to Defendants.

- 2.5. The Settlement Funds are each intended to be a “Qualified Settlement Fund” within the meaning of Treasury Regulation § 1.468B-1 and any analogous local, state, and/or foreign statute, law, regulation, or rule. All taxes with respect to the earnings on the funds in the Settlement Funds shall be the responsibility of the Settlement Funds and the Escrow Agent or the Attorney General’s designee will pay any necessary taxes on a timely basis from the Settlement Funds. The Attorney General shall administer the Settlement Funds or may designate a third party to administer the Settlement Funds. If necessary, it shall be the responsibility of the Attorney General or his designee, to establish and maintain the Settlement Funds as a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1.
- 2.6. The Settlement Funds will be used to pay the reasonable costs and expenses associated with the administration of the Settlement (the “Settlement Fund Administration Costs”), as well as the payments outlined in Section 4, below.
- 2.7. Payments from the Cartwright Act Settlement Fund shall be made after approval of the Court. In no event shall Defendants have any obligation, responsibility, or liability arising from or relating to the administration, maintenance, preservation, investment, use, allocation, adjustment, distribution, or disposition of any funds in the Settlement Funds.
- 2.8. The Parties shall not publicly disclose the Settlement Amount until court approval papers are filed and shall cooperate with respect to the timing of such filing.

3. Escrow Accounts

- 3.1. The Escrow Accounts will be established with the Escrow Agent subject to escrow instructions mutually acceptable to counsel for the Parties. The Escrow Accounts shall be administered under the Court’s continuing supervision and control.
- 3.2. The Escrow Agent shall cause the funds deposited into the Escrow Accounts to be invested in instruments backed by the full faith and credit of the United States Government, and shall reinvest any income from these instruments and the proceeds from these instruments as they mature in similar instruments at their then current market rates.
- 3.3. Defendant Releasees shall have no responsibility for or liability whatsoever with respect to any losses suffered by, or fluctuations in the value of, the Settlement Funds.
- 3.4. The Attorney General shall have no responsibility for or liability whatsoever with respect to any losses suffered by, or fluctuations in the value of, the Settlement Funds.

4. Notice and Exclusion Procedures

- 4.1. KCC Class Action Services, LLC is nominated as the claims administrator, to serve at the direction of the Attorney General, and will be paid out of the relevant Settlement Fund, in order to facilitate the provision of notice and to distribute and/or administer the distribution of funds to natural persons and pursuant to Exhibit A. The Attorney General

may select a successor claims administrator if the Claims Administrator is unable to fulfill the duties defined herein in a manner satisfactory to the Attorney General.

- 4.2. Within a reasonable period following the Court's approval of this Settlement Agreement, the Attorney General or the designated claims administrator shall effectuate notice to potential claimants pursuant to Cal. Bus. & Prof. Code § 16760(b)(1). Though the Parties agree it is not practical to create the detailed contents of the notice at this time, the eventual notice, also to be approved by the Court prior to distribution, will set forth at least a summary of the terms of the Settlement Agreement (including a description of the Release), a proposed plan of allocation, the Attorney General's request for attorneys' fees, costs, and expenses, and the right to request exclusion from the settlement.
- 4.3. The Attorney General will include a proposed notice program and plan of allocation to be approved by the Court in moving for Court approval of the Settlement Agreement, including any allocation, as well as any provisions relating to *cy pres*. Subject to the Court's approval and Sections 2.2, 2.5, 2.6, and 2.7 above, the Attorney General shall have the sole discretion and responsibility for use, allocation, division, and disbursement of the Settlement Funds. The Defendants shall have no responsibility for or influence with respect to the use, allocation, division, or disbursement of the Settlement Funds. The Attorney General will provide a draft of the notice program and plan of allocation to Defendants at least two days before filing and give Defendants an opportunity to comment on them. Defendant Releasees may not partake in the distribution of the Settlement Funds.
- 4.4. In moving for Court approval of the Settlement Agreement, the Attorney General shall include a proposed process for requesting exclusion pursuant to Cal. Bus. & Prof. Code § 16760(b)(2). A natural person may effect such an exclusion by sending a written notification to the Attorney General or his designated claims administrator at the address provided in the notice received by the deadline set for such notices. The Attorney General will propose to the Court that, to be valid, each written request for exclusion must set forth the name of the individual seeking exclusion and be signed or submitted physically or electronically by the individual seeking exclusion (or his or her individual legal representative, but not counsel purporting to act collectively on behalf of capable individuals who have not consented to such representation).
- 4.5. All persons who submit valid and timely requests for exclusion in the manner set forth in this Section shall be excluded from the settlement, shall have no rights under the Settlement Agreement, shall not share in the distribution of the Settlement Funds, and shall not be bound by the Settlement Agreement.
- 4.6. Within 60 days after the end of the claims period approved by the Court, the Attorney General or the claims administrator shall prepare and file with the Court for its approval a report (the "Distribution Proposal") that:
 - 4.6.1. Lists each natural person that submitted a request for exclusion that the Attorney General or the claims administrator received, with any confidential information filed

under seal with the Court, and states whether the requests for exclusion were timely and properly made;

4.6.2. Confirms that the notice plan was carried out and that any other notice ordered by the Court were provided in the manner directed by the Court;

4.6.3. Attaches a plan of distribution.

4.7. Following approval of the Distribution Proposal, the Attorney General and/or the claims administrator shall effect the distribution of funds from the Settlement Funds according to the Distribution Proposal, including any modifications made by the Court.

5. Defendants' Right to Terminate Based on Exclusions

Defendants, acting collectively, may terminate, rescind, and void this Settlement Agreement, at their own discretion, if timely and valid exclusion requests exceed 2.5% (calculated as the number of persons submitting an exclusion request divided by the number of adult natural persons resident in California). Defendants may exercise this right by, within 20 Business Days of receiving notice of the number of exclusion requests validated under Section 4.6.1, giving notice to the Attorney General that Defendants are terminating and rescinding this Settlement Agreement and voiding the settlement *ab initio*.

6. Court Approval

6.1. The Parties shall recommend to the Court approval of this Settlement Agreement. (The Parties concur that Court approval is not required with respect to UCL-based claims; however, the settlement reflected herein is a complete resolution of the claims asserted in this Action and the parties are seeking approval of the Settlement Agreement in full.) The Parties shall use their best efforts to effectuate this Settlement Agreement and its purpose, including cooperating in seeking any necessary court approvals.

6.2. The Attorney General will move for approval of the Settlement Agreement and entry of the [Proposed] Final Judgment attached as Exhibit B.

6.3. If the Court does not approve the Settlement Agreement or the Settlement Agreement is terminated for any reason, the Agreement shall be void *ab initio* and the Parties shall be returned to their respective litigation positions, as provided in Section 10.3. If the Court conditions approval on a material modification of the Settlement Agreement, or if the final judgment entered by the Court in connection with approval of the Settlement Agreement materially alters the [Proposed] Final Judgment attached as Exhibit B, then Defendants (acting collectively) or the Attorney General may choose to terminate the Settlement Agreement and render it void *ab initio*.

7. Dismissal, Judgment, and Finality

- 7.1. The Parties shall jointly seek entry of the [Proposed] Final Judgment attached as Exhibit B, the terms and conditions of which are incorporated in this Settlement Agreement in full.
- 7.2. This Settlement Agreement shall become final when each of the following has occurred:
 - 7.2.1. A final judgment is entered dismissing the Action with prejudice; and
 - 7.2.2. The time for appeal or to seek permission to appeal the final judgment has expired or, if appealed, the final judgment has been affirmed by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review.

8. Releases, Discharge, and Covenant Not to Sue

- 8.1. In addition to and not in lieu of the effect of any final judgment entered in accordance with this Settlement Agreement, upon this Settlement Agreement becoming final as set out in Section 7.2, and in consideration of payment of the Settlement Amount and for other good and valuable consideration, the Plaintiff Releasor and Defendant Releasees shall fully, finally, and forever release their claims against each other as follows (the "Release" or the "Released Claims"):
 - 8.1.1. Plaintiff Releasor, on the one hand, and Defendant Releasees, on the other hand, hereby completely release, acquit, and forever discharge each other from the claims and cross-claims asserted in the Action, or that could have been asserted in the Action, or that relate to the facts and conduct alleged in the Action. For the avoidance of doubt, this Release includes claims or cross-claims for violation of any federal or state antitrust, commodities, market manipulation, price gouging, unfair competition, unfair practices, price discrimination, unitary pricing, or trade practice law (the "Relevant Laws"), whether known or unknown, and arising from or relating to Defendants' conduct concerning trading, selling, buying, or importing Relevant Products in California. This Release includes a release of claims on behalf of natural persons on whose behalf this Action was brought to the fullest extent permitted under Cal. Bus. & Prof. Code § 16760.
- 8.2. Notwithstanding any term in this Settlement Agreement, the Release specifically does not include environmental claims or claims for tax liability.
- 8.3. The proposed final judgment in this Action shall refer to the statutory language in Cal. Bus. & Prof. Code § 16760(b)(3).
- 8.4. No Party shall take any position or make any statement in this proceeding or any proceeding related to the claims or conduct described in Section 8.1.1 above that is inconsistent with Section 8 constituting a full release of the claims and cross-claims as described in Section 8.1.1.

- 8.5. After the Effective Date of this Settlement Agreement, the Plaintiff Releasor shall not seek to establish liability against any Defendant Releasee based, in whole or in part, upon any of the claims released in Section 8.1.1, or any conduct at issue in those released claims; Defendant Releasees shall not seek to establish any claim against the Plaintiff Releasor based, in whole or in part, upon any of the claims released in Section 8.1.1, or any conduct at issue in those released claims.
- 8.6. With respect to the Released Claims, the Plaintiff Releasor expressly waives and releases, upon this Settlement Agreement becoming final, any and all provisions, rights, and benefits conferred by § 1542 of the California Civil Code, which states: “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party” and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, that is similar, comparable or equivalent in effect to § 1542 of the California Civil Code.

9. No Admission of Liability

- 9.1. Defendants deny any past wrongdoing concerning their commercial activity in California as alleged in this Action. Defendants have asserted and continue to assert defenses thereto, and Defendants have expressly denied and continue to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Complaint.
- 9.2. The Attorney General denies each of the claims and contentions alleged by Defendants in the Cross-Complaint.
- 9.3. Neither the Settlement Agreement nor any negotiations, discussions, proceedings, or acts performed or documents executed pursuant to or in furtherance of the Settlement Agreement: (a) are or may be deemed to be or may be used as admissions of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of Defendants; or (b) are or may be deemed to be or may be used as admissions of, or evidence of, any fault or omission of Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal.

10. Stay of Proceedings

- 10.1. The Parties have stipulated to stay the Action for all purposes other than to effectuate Court approval and/or as required by Court process. The Parties agree to continue the stipulation until such time as this Settlement Agreement is approved by the Court or otherwise terminated pursuant to its terms.
- 10.2. Without waiver or disclosure of any work product, the Attorney General confirms that upon execution of the Parties’ May 11, 2023 Term Sheet, he withdrew from any joint prosecution, cooperation, or common interest agreement concerning the parallel federal class action *In re California Gasoline Spot Market Antitrust Litigation*, No. 3:20-cv-03131-JSC (N.D. Cal.).

- 10.3. This action is tolled for the purposes of § 583.310 of the Code of Civil Procedure. For the avoidance of doubt, if the Court does not approve the Settlement Agreement or the Settlement Agreement is terminated for any reason, the five-year deadline excludes the period between when the parties agreed to a settlement in principle on May 11, 2023, and the Court's order disapproving the settlement or the Settlement Agreement's termination.
- 10.4. If the Court does not approve the Settlement Agreement or the Settlement Agreement is terminated for any reason, the Parties shall be returned to their respective procedural postures, *i.e.*, the *status quo* as of May 11, 2023, so that the Parties may take such litigation steps that the Parties otherwise would have been able to take absent the pendency of this Settlement Agreement. In such event, the Parties will negotiate in good faith and submit for Court approval a revised case schedule for any events previously scheduled for dates following May 11, 2023.
- 10.5. Subject to the Court's final approval of the Settlement Agreement, Defendants will withdraw their motions for summary judgment and adjudication, motion to exclude the Attorney General's expert, and supporting papers, without prejudice to their refiling if the settlement is terminated, not approved, or otherwise rendered null or void.

11. Fair, Adequate, and Reasonable Settlement

The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement Agreement through arms-length negotiations, taking into account all relevant factors, present and potential. This Settlement Agreement was reached after extensive negotiations that included a mediation process before Hon. Layn Phillips.

12. California Trading

Defendants deny any past wrongdoing concerning their commercial activity in California as alleged in this action.

Defendants agree that to the extent they trade, sell, buy, or import Relevant Products in California in the future, they will ensure that they have adequate processes in place to comply with their legal obligations.

13. Deletion of Documents

Following final settlement approval, the parties shall comply with the terms of the Protective Order entered by the Court on March 15, 2021.

14. Fees and Costs

The Parties to bear their own fees and costs, subject to the Attorney General's potential application for fees and costs as part of court approval of the Settlement Agreement. Any such fees and costs must be awarded out of and not in addition to the Cartwright Act Settlement Fund described in Section 1.16 above. Defendants shall not pay any

additional fees or costs. Defendants agree to remain silent (take no position) on the Attorney General's application so long as it is consistent with this provision.

15. Notice

Any notice required or permitted to be given to the Parties in connection with this Settlement Agreement shall be in writing and shall be given by email or letter by overnight delivery to the undersigned counsel of record for the party to whom notice is being provided.

16. Continuing Jurisdiction

The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Settlement Agreement, and shall have jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement that cannot be resolved by negotiation by the Parties.

17. Entire Agreement

- 17.1. This Settlement Agreement constitutes the entire, complete, and integrated agreement among the Parties pertaining to the settlement of the Action, and supersedes all prior undertakings by the Parties in connection herewith.
- 17.2. In entering this Settlement Agreement, no Party has made or relied on any representation or warranty not specifically set forth herein.
- 17.3. Notwithstanding the foregoing, any written addendum to this Settlement Agreement that is signed on behalf of the Parties who are bound by that addendum shall be given the same force and effect as if it were part of this Settlement Agreement.
- 17.4. This Settlement Agreement may not be modified or amended except in writing signed by the Parties and approved by the Court.

18. Authorization

Each Party hereto represents and warrants that its undersigned officer or counsel has full authority and capacity to execute this Settlement Agreement on that Party's behalf. Each signatory represents that he or she has the full power, authority, and competence necessary to enter into this Agreement.

19. No Waiver

There shall be no waiver of any term or condition absent an express writing to that effect by the Party to be charged with that waiver. No waiver of any term or condition in this Settlement Agreement by any Party shall be construed as a waiver of a subsequent breach or failure of the same term or condition, or waiver of any other term or condition of this Settlement Agreement.

20. Headings

The headings used in this Settlement Agreement are solely for the convenience of the Parties and shall not be used to interpret the Settlement Agreement.

21. Construction and Interpretation

Neither the Parties nor their attorneys shall be deemed the drafter of this Settlement Agreement for purposes of interpreting any provision hereof in any judicial or other proceeding. The Parties waive the application of any law, regulation, holding, or rule of construction providing that ambiguities in an agreement shall be construed against the drafter of such agreement.

22. Binding on Successors

This Settlement Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the Parties.

23. Counterparts

This Settlement Agreement may be executed in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument. The several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies of executed copies of this Settlement Agreement may be treated as originals.

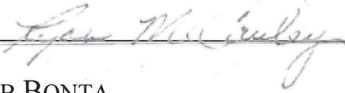
24. Governing Law

This Settlement Agreement is entered into in accordance with the laws of the State of California and shall be governed by and interpreted in accordance with California law, notwithstanding conflict of laws principles.

25. Effect of Weekends and Holidays

If any date or deadline in this Settlement Agreement falls on a Saturday, Sunday, or federal or state holiday, the next Business Day following the date or deadline shall be the operative date.

IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys:



ROB BONTA
Attorney General of California
PAULA L. BLIZZARD
SENIOR ASSISTANT ATTORNEY GENERAL
MICHAEL JORGENSON
Deputy Attorney General Supervisor
RYAN J. MCCAULEY
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Counsel for Defendant Vitol Inc.



JEFFREY M. DAVIDSON
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*Counsel for Defendants SK Energy
Americas Inc. and SK Trading International
Co. Ltd.*

Exhibit A – Settlement Payment Allocation

The Settlement Payment is not an admission of liability and was paid in order to resolve the claims and obtain the releases as set forth in the Agreement.

For purposes of allocating the Settlement Payment in relation to the claims asserted:

- a. The amount of the Settlement Payment that will be allocated to the Cartwright Act claim, under Business & Professions Code, § 16760(a)(1): \$37,500,000. The allocation does not prevent the Attorney General’s potential application for fees and costs pursuant to Section 14 of the Settlement Agreement.
- b. The amount of the Settlement Payment that will be allocated to the Unfair Competition Law claim, under Business & Professions Code, § 17200, *et seq.*: \$12,500,000. This amount will be distributed pursuant to Business & Professions Code, § 17206 and instructions provided by the Attorney General.

The Attorney General will provide Defendants with a copy of the Form 1098-F that it files with the IRS.

Note 1: The Cartwright Act claim is brought by the Attorney General to recover funds intended to remediate alleged harm as pleaded in the Complaint: “The Attorney General may bring a civil action in the name of the people of the State of California, as *parens patriae* on behalf of natural persons residing in the state, . . . , to secure monetary relief as provided in this section for injury sustained by those natural persons to their property by reason of any violation of this chapter.” Bus. & Prof. Code, § 16760(a)(1).

Note 2: Defendants remain jointly and severally liable for the full Settlement Amount. As between any payments made by SKEA and SKTI, those Defendants allocate payments as follows: SKEA – 80%; SKTI – 20%. The Attorney General takes no position as to the validity of this allocation.

Exhibit B – Parties’ Proposed Final Judgment

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

VITOL INC.; SK ENERGY AMERICAS, INC.;
SK TRADING INTERNATIONAL CO., LTD.,

Defendants.

Case No.: CGC-20-584456

[PROPOSED] FINAL JUDGMENT

Judge: Hon. Andrew Y.S. Cheng
Department: 613

Action Filed: May 11, 2020

1 This matter came before the Court for hearing pursuant to the People’s¹ application for approval
2 of the Settlement Agreement dated _____, 2023. The Court has considered all papers filed and
3 proceedings held herein and is fully informed of these matters. For good cause shown, IT IS HEREBY
4 ORDERED, ADJUDGED, AND DECREED:

5 **I. JURISDICTION**

6 1. This Court has jurisdiction over the allegations and subject matter of the Complaint filed
7 in this action, and the parties to this action; and this Court has jurisdiction to enter this Judgment.

8 2. The Court shall retain jurisdiction over the implementation, enforcement, and performance
9 of this Settlement Agreement, and shall have jurisdiction over any suit, action, proceeding, or dispute
10 arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement
11 that cannot be resolved by negotiation by the Parties.

12 **II. SETTLEMENT PAYMENT**

13 3. The Court approves the Settlement Agreement between the Parties, including but not
14 limited to Sections 2 (“Settlement Funds”), 4 (“Notice and Exclusion Procedures”), and 8 (“Releases,
15 Discharge, and Covenant Not to Sue”). The Court finds that the Settlement Agreement is a fair, adequate,
16 and reasonable settlement of the Action and finds that the Parties arrived at the Settlement Agreement
17 through arms-length negotiations, taking into account all relevant factors, present and potential. Further,
18 the Court approves the Plan of Allocation and Distribution Proposal submitted by the People. The Parties
19 are to proceed as outlined in the Settlement Agreement, Notice Program, Plan of Allocation, and
20 Distribution Proposal.

21 4. Of the aggregate Settlement Funds, comprised of fifty million dollars (\$50,000,000), that
22 Defendants have paid in settlement of this action, twelve million, five hundred thousand dollars
23 (\$12,500,000) is allocated and will be distributed pursuant to Business & Professions Code, section 17206.
24 The remaining thirty-seven million, five hundred thousand dollars (\$37,500,000) is allocated and will be
25

26 _____
27 ¹ This action is brought by the Attorney General of California, including in his role as *parens patriae*
28 under the Cartwright Act on behalf of natural persons residing in California. Unless otherwise noted,
defined terms have the same meaning as in the Settlement Agreement.

1 distributed pursuant to Business & Professions Code, section 16760 and the Court's order regarding
2 attorney's fees and costs.

3 5. The People's claim concerning the Unfair Competition Law, Business & Professions Code,
4 section 17200 *et seq.*, and all cross-claims may be dismissed without approval of the Court. Pursuant to
5 paragraph 4 hereof, the aggregate Settlement Funds have been allocated between amounts to be allocated
6 and distributed pursuant to both Business & Professions Code, section 17206, and Business & Professions
7 Code, section 16760. The portion of the amount allocated to section 17206 and due to the Attorney
8 General shall be administered by the California Department of Justice and shall be used by the Antitrust
9 Section of the Public Rights Division of the Attorney General's Office, until all funds are exhausted, for
10 antitrust or consumer protection law enforcement. Such funding may be used for the costs of the Attorney
11 General's investigation, filing fees and other court costs, attorney's fees and expenses, payment to expert
12 witnesses and technical consultants, and other costs necessary to pursue antitrust or other unfair
13 competition matters investigated or initiated by the Attorney General.

14 **III. NOTICE AND REQUESTS FOR EXCLUSION**

15 6. The notice ordered by the Court and carried out by the People or their designee satisfies
16 the requirements of due process and California Business & Professions Code § 16760(c).

17 7. Those individuals identified in Exhibit 1 hereto have timely and validly requested
18 exclusion from the settlement and are so excluded for all purposes, are not bound by the Settlement
19 Agreement or this Final Judgment, and may not make any claim for a distribution from the Cartwright
20 Act Settlement Fund, or receive any benefit from the Settlement Agreement.

21 **IV. RELEASES**

22 8. The parties have negotiated and executed a full release of their respective claims, to the
23 fullest extent permitted by law.

24 9. Except for those individuals identified in Exhibit 1 hereto, and upon the Settlement
25 Agreement becoming final as set out in Section 7.2 of the Settlement Agreement, the Plaintiff Releasor
26 and Defendant Releasees shall be fully, finally, and forever released as follows:

- 27 a. Plaintiff Releasor, on the one hand, and Defendant Releasees, on the other hand,
28 hereby completely release, acquit, and forever discharge each other from the claims

1 and cross-claims asserted in the Action, or that could have been asserted in the
2 Action, or that relate to the facts and conduct alleged in the Action. For the
3 avoidance of doubt, this Release includes claims or cross-claims for violation of
4 any federal or state antitrust, commodities, market manipulation, price gouging,
5 unfair competition, unfair practices, price discrimination, unitary pricing, or trade
6 practice law (the “Relevant Laws”), whether known or unknown, and arising from
7 or relating to Defendants’ conduct concerning trading, selling, buying, or importing
8 Relevant Products in California. This Release includes a release of claims on behalf
9 of natural persons on whose behalf this Action was brought to the fullest extent
10 permitted under Cal. Bus. & Prof. Code, section 16760.

- 11 b. Notwithstanding the foregoing paragraph 9(a), the Release specifically does not
12 include environmental claims or claims related to tax liability.
- 13 c. With respect to the Released Claims, the Plaintiff Releasor expressly waives and
14 releases any and all provisions, rights, and benefits conferred by § 1542 of the
15 California Civil Code, which states: “A general release does not extend to claims
16 that the creditor or releasing party does not know or suspect to exist in his or her
17 favor at the time of executing the release and that, if known by him or her, would
18 have materially affected his or her settlement with the debtor or released party” and
19 all provisions, rights and benefits conferred by any law of any state or territory of
20 the United States, or principle of common law or foreign law, that is similar,
21 comparable or equivalent in effect to Section 1542 of the California Civil Code.

22 **V. RES JUDICATA**

23 10. The Attorney General’s claim under the Cartwright Act was brought pursuant to Cal. Bus.
24 & Prof. Code § 16760(a)(1). The res judicata effect of this final judgment shall be in accordance with
25 Cal. Bus. & Prof. Code § 16760(b)(3).

26 **VI. NO ADMISSION OF WRONGDOING**

27 11. Neither the Settlement Agreement nor any negotiations, discussions, proceedings, or acts
28 performed or documents executed pursuant to or in furtherance of the Settlement Agreement: (a) are or

1 may be deemed to be or may be used as admissions of, or evidence of, the validity of any Released Claim,
2 or of any wrongdoing or liability of Defendants; (b) are or may be deemed to be or may be used as
3 admissions of, or evidence of, any fault or omission of Defendants in any civil, criminal, or administrative
4 proceeding in any court, administrative agency, or other tribunal; or (c) are or may be deemed to be or
5 may be used as admissions of, or evidence of, the validity of any of the claims and contentions alleged by
6 Defendants in the Cross-Complaint.

7 **VII. DISMISSAL WITH PREJUDICE**

8 12. Except as to any individual claim of those natural persons (identified in Exhibit 1 hereto)
9 who have validly and timely requested exclusion from the settlement, the Action and all claims and cross-
10 claims contained therein, are dismissed with prejudice. The Parties are to bear their own costs, except as
11 otherwise provided in the Settlement Agreement and the orders of this Court.

12
13 DATED:

14 _____
15 Hon. Andrew Y.S. Cheng
16 Superior Court Judge
17
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Jorgenson Declaration

Exhibit B

PLAN OF ALLOCATION AND NOTICE PROGRAM

Pursuant to the Settlement Agreement (see Settlement Agreement, Exhibit A), the amount of the Settlement Payment that will be allocated to the Cartwright Act claim, under Business and Professions Code section 16760, subdivision (a)(1), is \$37,500,000. Eligible Consumers may be eligible to receive a distribution from the Settlement Funds for the portion of the settlement amount allocated to the Cartwright Act claim (the Cartwright Act Settlement Fund), as explained below.

The amount of the Settlement Payment that will be allocated to the Unfair Competition Law (“UCL”) claim, under Business and Professions Code section 17200, *et seq.*, is \$12,500,000. This amount will be distributed pursuant to Business and Professions Code section 17206, subdivision (c)(1). Half of the amount will be provided by the Attorney General to the City and County of San Francisco for the enforcement of consumer protection laws. Bus. & Prof. Code § 17206(4). The other half of the amount will be deposited in the Attorney General’s fund for enforcement of consumer protection laws by the Antitrust Section of the California Department of Justice.

All capitalized terms used herein shall have the same meaning as provided for in the Settlement Agreement, unless the term is expressly defined herein.

I. DIRECT DISTRIBUTION TO CONSUMERS: PAYMENT FROM THE CARTWRIGHT ACT SETTLEMENT FUND

The funds deposited into the Cartwright Act Settlement Fund and any accrued interest after deposit, less Settlement Fund Administration Costs, taxes, and attorneys’ fees, and costs, shall be referred to as the Direct Distribution Amount. Upon final approval of the Settlement Agreement by the Court, the Direct Distribution Amount shall be available for distribution to Eligible Consumers.

All natural persons who purchased gasoline in Southern California (the ten counties of, Los Angeles, San Diego, Orange, Riverside, San Bernardino, Kern, Ventura, Santa Barbara, San Luis Obispo or Imperial) from February 20, 2015 through November 10, 2015 and were a resident of California at any point between May 4, 2020 and the present are eligible to receive a distribution out of the Cartwright Act Settlement Fund (“Eligible Consumers”). Eligible Consumers must attest to such a purchase under penalty of perjury. Each Eligible Consumer that submits a claim form for payment from the Cartwright Act Settlement Fund shall be referred to as a claimant. The Direct Distribution Amount shall be apportioned equally across the total number claimants who timely submit a valid claim. Each claimant will be limited to a single recovery. Defendant Releasees may not partake in the distribution of the Settlement Funds.

II. CY PRES DISTRIBUTION OF RESIDUE CORPUS

If any funds from the Cartwright Act Settlement Fund remain following the distribution to claimants and the deduction of taxes, attorneys’ fees, costs, and expenses, and Settlement Fund Administration Costs (the “Remaining Cartwright Act Settlement Funds”), the funds will be distributed *cy pres* to a public California university or universities to further study the California gas and transportation energy market with a goal of lowering costs to consumers and/or to develop analytical tools to detect and deter future market manipulation. This process will ensure that the recipient(s) will use the funds for a purpose that aligns with the purpose of the litigation and harm incurred by Eligible Consumers.

The Attorney General's Office, which has overseen the *cy pres* distribution of residual funds from several antitrust settlements obtained on behalf of consumers previously in its role as *parens patriae* under the Cartwright Act, will supervise the Remaining Cartwright Act Settlement Funds and their distribution. The Attorney General's Office or its designee will select the *cy pres* recipient(s) based on which project best serves the interests of the people of the State of California and will most contribute to the study of the California gas and transportation energy market with a goal of lowering costs to consumers and/or to the development of analytical tools to detect and deter future market manipulation.

Based on the Attorney General's experience supervising the distribution of *cy pres* funds in similar cases, the Attorney General believes that any decision pertaining to the solicitation and selection of recipient(s), as well as the amount(s) to be awarded, should be deferred until the claims process has concluded. At that point, it will be known whether there are Remaining Cartwright Act Settlement Funds, their extent, and when they can be made available for distribution.

III. NOTICE PROGRAM

Under the Attorney General's supervision, the Settlement Administrator will implement a notice program based on a publication/media campaign, an email campaign, and mail notice. The plan reaches adults throughout California, with a focus on likely Eligible Consumers. In order to avoid consumer confusion and take advantage of possible synergies, certain aspects of the notice program will be coordinated with notice given in the federal class action in *In re California Gasoline Spot Market Antitrust Litigation*, Civil Case No.: 3-20-cv-03131, as noted below. The Notice Program is confirmed by the declaration of Zachary Cooley on behalf of the Settlement Administrator, Verita Global, LLC ("Cooley Decl.").

Mail Notice: Postcard mail notice will be mailed to households located within Southern California. (See Cooley Decl., Ex. 1.) All notices will be addressed to "Resident."

Email Campaign: Email addresses will be obtained for individuals known to be located within Southern California during 2015. An email notice will be distributed, consisting of a summary notice in the body of the email and a link to the settlement website. (See Cooley Decl., Ex. 2.) Email response rates will be tallied and best practices will be used to ensure reasonable delivery and response rates.

Publication in Newspapers: A summary notice will be placed as an approximate eighth-page ad unit one time each in newspapers across California (see Jorgenson Decl., Ex. 3 [example of newspaper summary notice]), including the *Los Angeles Times* (Los Angeles, Santa Barbara, and Ventura Counties); *The San Diego Union-Tribune* (San Diego County); *San Francisco Chronicle* (City and County of San Francisco); *The Mercury News*, *East Bay Times*, *Marin Independent Journal*, *Santa Cruz Sentinel*, *Monterey Herald*, *Vallejo Times-Herald*, and *The Vacaville Reporter* (Contra Costa, Marin, Monterey, Santa Clara, Santa Cruz, and Solano Counties); *The Orange County Register* (Orange County); *Fresno Bee*, *Sacramento Bee*, and *Modesto Bee* (Fresno, Sacramento, and Stanislaus Counties); *The Record* (Calaveras and San Joaquin Counties); *Imperial Valley Press* (Imperial County); *The Bakersfield Californian* (Kern County); *The Press-Enterprise*, *The Sun*, and *Daily Bulletin* (Riverside and San Bernardino Counties); *The Tribune* (San Luis Obispo County); *Santa Barbara Independent* (Santa Barbara County); *The Record Searchlight* (Shasta County); and *Ventura County Star* (Ventura County). Publication notice will also be provided through Spanish-language newspapers and Spanish-language online news websites covering Southern California as approximate quarter-page ad units or banners: *La Opinión* (Los Angeles Counties); *La Prensa Hispana* (Riverside, Coachella Valley, San Bernardino, Blythe, and Imperial Valley Counties); *El Latino* (San Diego); *San Diego Union-Tribune en Español* (website); *The Orange County Register* (website); *Los Angeles Times en Español* (website); and *The*

Riverside Press-Enterprise (website). The notice will appear in each newspaper's print edition, as well as its online digital replica where available.

Digital Media: For a nine week (63 day) period, over 81.3 million digital media impressions targeting adults 25 years of age or older in California will be purchased programmatically via various ad exchanges and Facebook and delivered on desktop and mobile devices. (See Cooley Decl., Ex. 4.) These media impressions will be in English, Spanish, Tagalog, Chinese, Vietnamese, Korean, Armenian, and Arabic, as appropriate. A portion of the impressions will be targeted to a geofence of devices in Southern California. An additional portion of the impressions will be targeted to a geofence of devices that engaged with a location service while in Southern California within the last four years ago but are now located elsewhere in California. The digital media notice has been designed to coincide with the digital media notice given in *In re California Gasoline Spot Market Antitrust Litigation*.

Press Release: A nationwide press release will also be released to press outlets as well as to a National Hispanic newsline in Spanish. The press release provides notice of the settlement in this action as well as the settlement in *In re California Gasoline Spot Market Antitrust Litigation*. (See Cooley Decl., Ex. 5.)

Website: Each of the notices above will also direct recipients to a website—www.CalGasLitigation.com—that will be established and maintained by the Settlement Administrator. The settlement website will be shared between this action and *In re California Gasoline Spot Market Antitrust Litigation*. The landing/main page of the joint website will provide an info-graphic directing visitors to the appropriate settlement pages, i.e., one designated page for this settlement and another for the settlement in *In re California Gasoline Spot Market Antitrust Litigation*. On the designated settlement page for this settlement, visitors will be able to read, download, and print the Complaint, Settlement Agreement, Motion to Give Notice of *Parens Patriae* Settlement, long form notice, and other relevant filings. Visitors may file a Claim Form or Exclusion Form online as well as download either form to be submitted via US Mail. Visitors will be able to view a list of Frequently Asked Questions and Answers as well as contact information for counsel for both parties.

Telephone, Email, and Mail: The Settlement Administrator will also establish and host a case-specific toll-free number for inquiries. Any person may request to have a long form notice mailed directly to them. The toll-free number will be displayed on the postcard mail notice and on the case website. The Settlement Administrator will establish and monitor an electronic and physical case mailbox for exclusion requests and other case correspondence.