

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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UNITED STATES OF AMERICA,	)	
Plaintiff	)	Case No. 16-CR-20810-04
v.	)	Honorable George Caram Steeh
TAKATA CORPORATION,	)	
Defendant.	)	

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**SEVENTEENTH STATUS REPORT OF THE SPECIAL MASTER**

1. Eric D. Green, the court-appointed Special Master for the custody, administration, and distribution of the Takata Airbag Restitution Funds, hereby respectfully submits his Seventeenth Status Report pursuant to paragraph 4 of this Court’s Appointment Order (the “Status Report”).<sup>1</sup> The Status Report provides an overview of the Special Master’s work from March 17, 2020 through May 18, 2020 (the “Reporting Period”) and anticipated future efforts. The Special Master is presently on schedule regarding the processing of Claims and distribution of the restitution funds available to eligible Claimants who have filed Claims with the Individual Restitution Fund (the “IRF”).

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Sixteenth Status Report of the Special Master*, dated March 17, 2020 [Dkt. No. 122].

**I. ACTIVITIES IN THE REPORTING PERIOD.**

**A. EPIQ RANSOMWARE ATTACK.**

1. In the *Sixteenth Status Report of the Special Master*, dated March 17, 2020 [Dkt. No. 122], the Special Master informed the Court that a ransomware attack took place on the network of the Special Master's claims administrator, Epiq Systems, Inc. ("Epiq"). The Special Master informed the Court that he and his professionals were taking steps to ensure that claimants' data is protected and that the Special Master would provide the Court with updates. The Special Master is pleased to report that the ransomware attack on Epiq has been resolved. The Special Master has received a report from Epiq and the third party investigatory forensic expert retained by Epiq. The report concluded that no personal or claimant data had been accessed by the perpetrators of the ransomware attack. Moreover, Epiq has resumed all of its administrative and claims processing responsibilities assigned to it by the Special Master and is fully operational.

**B. BDO ENGAGEMENT.**

2. On April 30, 2020 the Special Master engaged (subject to the Court's approval) BDO USA LLP ("BDO") to perform a set of limited, agreed-upon procedural reviews and audits of the various IRF bank accounts, financial statements, and monetary transfer activity. The Special Master has determined that although the IRF's constitutional documents do not require a formal audit, the

engagement of BDO to perform the agreed-upon procedures outlined in the engagement letter is consistent with sound trust governance and is in the best interest of victims. Substantially contemporaneous with this filing, the Special Master has provided a proposed Order for the Court's consideration regarding BDO's proposed retention.

**C. CURRENT CLAIMS PAYMENT PROCESS.**

3. Contemporaneous with this filing the Special Master filed the *Special Master's Request for Approval of Third Distribution of Individual Restitution Fund* (the "Third IRF Distribution Request") [Dkt. No. 123], seeking approval from this Court for: (i) a third distribution from the IRF to compensate eighteen (18) additional eligible Claims; and (ii) the denial of forty-two (42) additional ineligible Claims.

4. As described in the Third IRF Distribution Request, the Special Master evaluated each Claim referenced therein, determined whether it is eligible for compensation, and, if eligible, assigned a point value. In total, after all internal reviews and appeals, 17,937 points were awarded to the eighteen (18) eligible Claims, amounting to \$1,273,706.37 to be distributed under this proposed distribution. In addition, as identified in the Third IRF Distribution Request, the Special Master determined forty-two (42) Claims to be ineligible for compensation.

5. Consistent with the procedures set forth in the *Minutes of July 25, 2019 Conference with Special Master* (the “July 2019 Minutes Order”) [Dkt. No. 110], the Special Master will notify affected Claimants: (i) of their point award and the monetary value of the award (if any); (ii) of the filing of the Third IRF Distribution Request; and (iii) that they may object to the Third IRF Distribution Request by submitting a written response to the Special Master on or before June 8, 2020 (the “Objection Deadline”).

6. As the Court is aware, there are two conditions that must be met for Claimants with compensable Claims to receive payment from the IRF. First, all Claimants must execute and submit to the Special Master the Court-approved release agreement (a “Release”). Additionally, if any Claimant was represented by counsel, such counsel must execute and submit to the Special Master a fee rider (a “Fee Rider”) acknowledging and agreeing to abide by the restriction on attorney’s fees set forth in the IRF Methodology Order. (Dkt. No. 78, PageID 2219). The Special Master will issue payment to eligible Claimants on a rolling basis following receipt of the necessary documentation.

## **II. CORONAVIRUS’ IMPACT ON POINT VALUE CONSIDERATIONS.**

7. As the Court is aware, the coronavirus pandemic has devastated the global economy. This has resulted in a precipitous and material decline in long-term interest rates on marketable securities issued by the U.S. Government. In

accordance with the IRF's court-approved Investment Guidelines, almost all of the IRF's funds are invested in such securities. Thus, the sharp drop in interest rates is likely to affect the projected investment returns on the IRF's holdings.

8. The IRF's court-approved point value is based on numerous assumptions, including projected investment returns. The Special Master has consulted closely with his advisors, including Wilmington Trust and NERA, to evaluate whether a change in the point value is warranted because of the changes in investment return assumptions.

9. Following an exhaustive examination of the issue in collaboration with his advisors, the Special Master does not believe a change to the IRF's point value is warranted at this time. The Special Master believes the current point value remains conservative and appropriate in light of the other assumptions driving the IRF's point value, including projected rupture incidents and recall completion rates. The Special Master intends to conduct a full re-estimation of liability early in 2021 that will incorporate more robust data on each of these inputs. In the meantime, the Special Master is comfortable maintaining the point value at its present level. The Special Master continues to closely monitor the investment climate and is prepared to re-visit this recommendation if the circumstances warrant.

**III. GOING FORWARD EFFORTS.**

10. As stated above, the Special Master and his team will continue to receive claims for compensation from the IRF and TATCTF (in his capacity as Trustee of that Trust), and will continue the process of reviewing, evaluating, and distributing funds on account of claims. The Special Master and his team will also continue to evaluate the claims data and recall completion rate data in connection with any future point-value evaluations. Notwithstanding administrative challenges imposed by the coronavirus pandemic, the Special Master and his claims evaluation team remain committed to completing its initial evaluation of Claims within thirty (30) days of receipt.

**CONCLUSION**

11. Subject to the matters referred to above, the Special Master will continue to perform his responsibilities and duties consistent with the Appointment Order and all other directives of this Court.

Dated: May 18, 2020

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. D. Green', written over a horizontal line.

Eric D. Green, Special Master