IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS, Plaintiff, v. TAKATA CORPORATION, TK HOLDINGS, INC., HONDA MOTOR COMPANY, AMERICAN HONDA MOTOR COMPANY,INC., and HONDA OF AMERICA MANUFACTURING, INC., Defendants.	CIVIL NO.: ST-16-CV-286

<u>SUPPLEMENTAL FINDINGS OF FACT AND CONCLUSIONS OF LAW</u>

This matter is before the Court on Plaintiff's Emergency Request for Expedited Ruling on Plaintiff Government's Motion for Preliminary Injunction and Supplement Evidence and Information in Support of the Motion for Preliminary Injunction Following the Emergency Hearing Held on June 19, 2017, filed on June 23, 2017. Numerous attempts by the Attorney General of the Virgin Islands to reach counsel for Defendants on June 24, 2017, by email and telephone have gone unanswered, forcing the Court to act *ex parte*.

Following the June 19, 2017, hearing, the Court entered oral findings of fact and conclusions of law on the records, which are incorporated herein by reference except to the extent those findings and conclusions would be inconsistent with the supplemental findings and conclusions entered herein. This Court had requested further evidence regarding the methodology the Court should employ in the calculation of a sum for court escrow, as well as the irreparable harm factor of the preliminary injunction balancing test. The Plaintiff has provided that information. Further, multiple reliable new sources have reported that the bankruptcy of

Defendants Takata Corporation and TK Holdings, Inc., will occur on Monday, June 26, 2017. The financial markets have also frozen their stock from trading. The Court having determined that a preliminary injunction should issue, the Court enters Supplemental Findings of Fact and drawn Supplemental Conclusions of Law, as follows:

SUPPLEMENTAL FINDINGS OF FACT

1. Additional evidence produced by Plaintiff since the June 19, 2017, hearing through the June 23, 2017, Emergency Request for Expedited Ruling on Plaintiff Government's Motion for Preliminary Injunction and Supplement Evidence and Information in Support of the Motion for Preliminary Injunction Following the Emergency Hearing Held on June 19, 2017, demonstrates that the bankruptcy of Takata Corporation and TK Holdings, Inc., is imminent.
2. The number of affected vehicles in the Virgin Islands is approximately 11,905.
3. Honda manufactured approximately 2,519 of the affected vehicles, or about twenty-one percent (21%).
4. The affected vehicles in the Virgin Islands contain approximately 18,140 recalled airbags.
5. The rate of repair of affected vehicles in the Virgin Islands is significantly lower than national repair rate for all automakers of 38.1%.
6. The Virgin Islands Criminally Influenced and Corrupt Organizations Act provides for civil penalties of up to $1,000,000.00 for conduct constituting a violation of CICO.
7. Plaintiff's Complaint alleges three violations of CICO by Takata Holdings, Inc.
8. Plaintiff also seeks disgorgement of funds under CICO.
9. The approximate cost of an air bag inflator is Sixty dollars ($60.00).
10. In addition to the necessity of repairing their vehicles, Virgin Islands consumers will incur additional losses in time and expense in ensuring the safety of the affected vehicles.
11. As a whole, Virgin Islands consumers who own the affected vehicles have not responded promptly to the attempts of the Attorney General of the Virgin Islands to inform them of the national recall program and to warn them of the dangers associated with continuing to operate the affected vehicles without repair or replacement of the airbag inflators.

12. Outreach to the owners of affected vehicles in the Virgin Islands will potentially include contact by mail, e-mail, media coverage, social media, telephone, and direct means, as well as incentives to consumers.
13. Owners of affected vehicles in the Virgin Islands will suffer lost wages, child care expenses, towing costs, barge fees, and other reasonable expenses in presenting affected vehicles for repair and waiting for those repairs to be accomplished.

Based on the foregoing, the Court enters the following:

SUPPLEMENTAL CONCLUSIONS OF LAW

1. The Court continues to have jurisdiction over the parties and subject matter.
2. Plaintiff submitted evidence in the form of testimony and exhibits sufficient to sustain its burden of proof for the issuance of a preliminary injunction.
3. Owners and drivers of affected vehicles in the Virgin Islands face a real chance of personal and financial injury in the event one or more of the affected vehicles becomes involved in a collision.
4. Owners and drivers of affected vehicles in the Virgin Islands have suffered a diminution in the value of their vehicles.
5. In the event of a bankruptcy of Takata Corporation and TK Holdings, Inc., there is a clear likelihood and danger that the people of the Virgin Islands would not be adequately protected by the MDL litigation, the settlement agreement, or the NHTSA recall.
6. In the event of a bankruptcy of Takata Corporation and TK Holdings, Inc., there is a clear likelihood and danger that the people of the Virgin Islands would not be adequately protected by the joint and several liability standard, as only twenty-one percent (21%) of the affected vehicles were manufactured by Honda.
7. Funds required by the Court to be escrowed by Takata represent money obtained by false pretenses, false representations, or actual fraud, and would not be dischargeable in bankruptcy.
8. TK Holdings, Inc., should escrow the sum of $3,000.000.00 for civil penalties for conduct constituting a violation of CICO.
9. TK Holdings, Inc., should escrow the sum of $1,088,457.00 for disgorgement for conduct constituting a violation of CICO.
10. TK Holdings, Inc., should escrow the sum of $1,000,000.00 for outreach to consumers for conduct constituting a violation of CICO.

11. TK Holdings, Inc., should escrow the sum of $2,976,250.00 for out of pocket expenses of Virgin Islands consumers.

12. Consequently, the total sum to be escrowed by TK Holdings, Inc,. should be Eight million sixty-four thousand seven hundred seven dollars ($8,064,707.00), which shall be held in an interest bearing account by the Clerk of the Court, subject to further Order of the Court.

DATED: June 25, 2017.

HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

ATTEST: Estrella H. George
Clerk of the Court

By: 6/25/17
Dori Boynes-Tyson
Court Clerk Supervisor ___/___/___

CERTIFIED TRUE COPY

Date: JUNE 25, 2017
ESTRELLA H. GEORGE
Clerk of the Court

By:
Title: Court Clerk II