

1 STEPHANIE CHRISTENSEN
 Acting United States Attorney
 2 SCOTT M. GARRINGER
 Assistant United States Attorney
 3 Chief, Criminal Division
 JOSEPH O. JOHNS (Cal. Bar No. 144524)
 4 Assistant United States Attorney
 Environmental & Community Safety
 5 Crimes Section
 1300 United States Courthouse
 6 312 North Spring Street
 Los Angeles, California 90012
 7 Telephone: (213) 894-4536
 Facsimile: (213) 894-6436
 8 E-mail: joseph.johns@usdoj.gov

9 GUSTAV W. EYLER
 Director
 10 United States Department of Justice
 Consumer Protection Branch

11 ALLAN GORDUS
 NATALIE N. SANDERS
 12 MARYANN N. MCGUIRE
 Trial Attorneys
 13 450 5th St NW, Suite 6400 South
 Washington, DC 20001
 14 Telephone: (202) 307-1862
 Facsimile: (202) 514-8742
 15 E-mail: allan.gordus@usdoj.gov

16 Attorneys for Plaintiff
 UNITED STATES OF AMERICA

17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,

20 Plaintiff,

21 v.

22 GREE USA, INC.,

23 Defendant.
 24

No. CR 2:21-CR-00498-DSF

JOINT STATEMENT OF FURTHER
INFORMATION IN RESPONSE TO DOCKET
NOS. 41 AND 49

25 The United States of America (the "government"), by and through
 26 the undersigned counsel, and defendant GREE USA, INC. ("Gree USA"), by
 27 and through its attorneys, hereby jointly submit the Joint Statement
 28

1 of Further Information below for the Court's consideration related to
2 Gree USA's plea agreement under Federal Rule of Criminal Procedure
3 11(c)(1)(C). The parties submit this additional information in support
4 of the filed Gree USA plea agreement to clarify certain of its
5 provisions.

6 I. PROCEDURAL BACKGROUND

7 This matter concerns a coordinated corporate criminal resolution
8 involving three related corporate entities. Gree Electric Appliances,
9 Inc. of Zhuhai ("Gree Zhuhai") is the direct parent of Hong Kong Gree
10 Electric Appliance Sales Co., Ltd. ("Gree Hong Kong") and the indirect
11 parent, through Gree Hong Kong, of Gree USA, Inc. ("Gree USA").
12 Collectively, the three Gree companies ("Gree Companies") have admitted
13 that they willfully failed to furnish information to the Consumer
14 Product Safety Commission ("CPSC") as required by 15 U.S.C. § 2064(b),
15 in violation of 15 U.S.C. §§ 2068(a)(4) and 2070.

16 The coordinated corporate criminal resolution includes a deferred
17 prosecution agreement ("DPA") between the government and Gree Zhuhai
18 and Gree Hong Kong, and a plea agreement between the government and
19 Gree USA. The DPA and the plea agreement both provide that the Gree
20 Companies agree to provide restitution to victims who were directly
21 and proximately harmed by a fire or overheating that was caused by
22 certain of their dehumidifiers, pursuant to 18 U.S.C. § 3663(a)(3).

23 During a status conference on January 12, 2022, the Court raised
24 questions and expressed concerns relating to certain aspects of the
25 Gree USA plea agreement, including provisions related to restitution
26 (Dkt. No. 41). The parties then filed a Joint Statement of Further
27 Information on June 8, 2022, to address these questions and concerns
28 (Dkt. No. 46).

1 At a pretrial conference held on June 13, 2022, the Court noted
2 that while some of the questions and concerns related to the plea
3 agreement had been addressed, the parties should further clarify
4 certain sections mentioned by the Court during both the January 12 and
5 June 13 conferences (Dkt. No. 49). The parties submit this Joint
6 Statement to clarify the plea agreement and address the remaining
7 questions raised by the Court.

8 II. GOVERNMENT'S NOTICES TO POTENTIAL VICTIMS

9 The government has created a public-facing webpage containing
10 information and materials for potential victims in this matter. The
11 webpage is in operation and available at the following URL:
12 [https://www.justice.gov/usao-cdca/potential-victims-gree-electric-
14 appliances-inc-zhuhai-hong-kong-gree-electric-appliances](https://www.justice.gov/usao-cdca/potential-victims-gree-electric-
13 appliances-inc-zhuhai-hong-kong-gree-electric-appliances). The webpage
15 has a copy of the information charging the Gree Companies, the DPA with
16 Gree Zhuhai and Gree Hong Kong, the Gree USA plea agreement, information
17 on how potential victims can make a claim for restitution, and other
18 resources available to potential victims. This Joint Statement and the
19 earlier Joint Statement filed on June 8, 2022 (Dkt. No. 46) will be
20 added to the government webpage.

21 The Gree Companies provide a full refund to any consumer with a
22 Gree dehumidifier that is subject to the recall. The government webpage
23 for potential victims has all three of the Gree dehumidifier recall
24 notices which identify the recalled Gree dehumidifiers and state how
25 consumers can get a refund. Specifically, each recall notice instructs
26 consumers to "immediately unplug and stop using recalled dehumidifiers"
27 and provides the following contact information for Gree: "Gree toll-
28 free at (866) 853-2802 from 8 a.m. to 6 p.m. ET Monday through Friday
or online at greedehumidifierrecall.com and click on Recall for more

1 information." Any consumer with a recalled Gree dehumidifier can
2 contact Gree at the number and website above to get a full refund for
3 their recalled Gree dehumidifier. The government webpage also states:
4 "Anyone who still owns a recalled dehumidifier should immediately
5 unplug and stop using it and contact the Gree companies for a full
6 refund as described in the recall announcements."

7 Once a change of plea hearing is scheduled, the government will
8 update the webpage to include the date, location, and other relevant
9 information for the hearing. The government webpage will also be
10 updated to include any restitution procedures or information provided
11 by the Special Master when such information is ready.

12 III. GREE USA PLEA AGREEMENT ON GREE WEBSITE

13 The Gree Companies will keep the Gree USA plea agreement
14 conspicuously available to the public on the Gree website
15 (<https://global.gree.com/usa/>) for two (2) full years as required by
16 paragraph 23 of the Gree USA plea agreement. (As noted in our prior
17 submission, a link to the DPA, Information, and Statement of Facts is
18 already conspicuously available there.)

19 IV. SELECTION OF SPECIAL MASTER FOR RESTITUTION

20 Thirty days before the Court's hearing on the Gree USA plea
21 agreement, Gree USA will provide the Court a candidate or candidates
22 to be the Special Master referenced in the restitution provisions of
23 the Gree USA plea agreement with a written proposal from each candidate
24 explaining how they will handle the restitution in the Gree USA plea
25 agreement. The Court may choose the candidate or one of the candidates
26 to be the Special Master or, if unsatisfied with the candidate or
27 candidates, require Gree USA to provide a new candidate within thirty
28

1 days. The Court may require Gree USA to provide new candidates for
2 Special Master until the Court selects a Special Master.

3 The parties recommend that the Court consider the following
4 information when selecting a Special Master for implementing the
5 restitution provisions of the Gree USA plea agreement:

- 6 1. The candidate's general background, education and training,
7 professional experience, professional commendations and honors,
8 licensing, and reputation.
- 9 2. The candidate's experience as a restitution or compensation
10 administrator.
- 11 3. The candidate's degree of objectivity and independence from the
12 Gree Companies.
- 13 4. The adequacy of the candidate's resources to discharge the
14 Special Master's responsibilities effectively.

15 V. GREE USA PLEA AGREEMENT

16 A. PARAGRAPHS 10-14 - LEGAL STANDARDS FOR SPECIAL MASTER

17 In paragraphs 10 to 12 of the Gree USA plea agreement, Gree USA
18 agrees to pay restitution to individuals and entities who were
19 "directly and proximately harmed" by a fire or overheating caused by
20 certain Gree dehumidifiers. This "directly and proximately harmed"
21 language is aligned with the language used in the Victim and Witness
22 Protection Act (VWPA), which defines victims entitled to restitution
23 as those "directly and proximately harmed as a result of the commission
24 of an offense." 18 U.S.C § 3663(a)(2); see also *United States v.*
25 *Peterson*, 538 F.3d 1064, 1075 (9th Cir. 2008); *United States v. Gamma*
26 *Tech Indus., Inc.*, 265 F.3d 917, 927-28 (9th Cir. 2001).

27 Paragraphs 13 and 14 provide that the Special Master will make
28 "findings of fact" and "determine the validity of each submitted

1 restitution claim, and for each valid claim, determine the amount of
2 restitution owed for that claim." The Special Master's determinations
3 regarding the proper award of restitution will be based upon the
4 preponderance of the evidence, with the victim bearing the burden of
5 demonstrating the amount of the loss sustained as a result of the fire
6 or overheating. This standard of proof is aligned with the standard of
7 proof required to resolve restitution disputes arising under the
8 Mandatory Victim Restitution Act (MVRA) and the VWPA. 18 U.S.C. §
9 3664(e); see *Peterson*, 538 F.3d at 1074-75.

10 B. PARAGRAPHS 10 AND 11 - INSURANCE COMPANY OFFSETS

11 According to the Gree USA plea agreement, the Special Master will
12 reduce the amount of restitution owed to a victim by, among other
13 things, the amount that the victim received from an insurance company
14 for that loss. When an award of restitution is reduced due to an
15 insurance payment or payments to a victim by the victim's own insurance
16 carrier (rather than an insurance carrier for the Gree Companies), then
17 the victim's insurance company that made such a payment is entitled to
18 restitution in the amount of its payments to the victim.

19 C. PARAGRAPH 14(d)

20 Paragraph 14(d) of the Gree USA plea agreement provides that the
21 Special Master will "[i]mplement appropriate procedures necessary to
22 carry out the foregoing duties within one hundred twenty (120) days of
23 the sentencing proceeding." This provision requires the Special Master,
24 within 120 days of Gree USA's sentencing, to create the procedures
25 needed to provide restitution according to the Gree USA plea agreement.
26 In other words, paragraph 14(d) only requires the Special Master to
27 put in place these procedures within 120 days of Gree USA's sentencing;
28 it does not require the Special Master to complete the entire

1 restitution process within 120 days. Once in place, the Special Master
2 will use these procedures to provide restitution to victims according
3 to the other restitution provisions in the Gree USA plea agreement.

4 D. PARAGRAPH 15(b)

5 Paragraph 15(b) allows Gree USA to appeal "in a court of competent
6 jurisdiction" any restitution award that is greater than fifty thousand
7 dollars. The "court of competent jurisdiction" referred to in
8 paragraph 15(b) is the United States District Court for the Central
9 District of California (the "District Court"). The Gree Companies
10 cannot appeal to the District Court any restitution award of fifty
11 thousand dollars or less. Potential victims have no right to appeal to
12 the District Court and cannot appeal any restitution award or the
13 denial of any restitution award.

14 VI. GREE COMPANIES' FINES, FORFEITURE, AND RESTITUTION

15 Under the terms of the coordinated corporate criminal resolution
16 with the Gree Companies, the Gree Companies have agreed to collectively
17 pay a total of \$91.2 million in combined monetary penalties and
18 forfeiture for their criminal conduct in this case. The Gree Companies
19 have also agreed to pay restitution according to the restitution
20 provisions of the Gree USA plea agreement.

21 The Gree Companies previously paid a \$15.45 million civil penalty
22 to the CPSC for the same misconduct involved in this case. Pursuant to
23 the "Coordination of Corporate Resolution Penalties and/or Joint
24 Investigations and Proceedings Arising from the Same Misconduct" Policy
25 in the Department of Justice Manual 1-12.100, the government credited
26 this civil penalty payment towards the criminal monetary penalty
27 imposed in the coordinated corporate criminal resolution. The fine,
28

1 penalties and forfeiture for the criminal conduct of the Gree Companies
2 in this case are listed below:

- 3 1. \$39,000,000 Forfeiture - Gree Zhuhai and Gree Hong Kong DPA.
- 4 2. \$52,200,000 Total Monetary Penalty - Gree Zhuhai and Gree Hong
5 Kong DPA and Gree USA Plea Agreement.
 - 6 a. \$36,250,000 Monetary Penalty - Gree Zhuhai and Gree Hong
7 Kong DPA.
 - 8 b. \$15,450,000 Civil Penalty - CPSC.
 - 9 c. \$500,000 Fine - Gree USA Plea Agreement.
- 10 3. Restitution - Amount Unknown at this time.

11 VII. CONCLUSION

12 The parties respectfully submit this filing and affirm that these
13 statements above accurately reflect the terms of the Gree USA plea
14 agreement. For the foregoing reasons, the government and defendant Gree
15 USA jointly request that the Court accept Gree USA's plea agreement
16 under Federal Rule of Criminal Procedure 11(c)(1)(C).

17 //
18 //
19 //
20 //
21 //
22 //
23 //
24 //
25 //
26 //
27 //
28 //

1 RESPECTFULLY SUBMITTED:

2 UNITED STATES ATTORNEY'S OFFICE
3 FOR THE CENTRAL DISTRICT OF
4 CALIFORNIA

5 STEPHANIE CHRISTENSEN
6 Acting United States Attorney

7 SCOTT M. GARRINGER
8 Assistant United States Attorney
9 Chief, Criminal Division

10 /S/

11 _____
12 JOSEPH O. JOHNS
13 Assistant United States Attorney

14 September 7, 2022

15 _____
16 Date

17 UNITED STATES DEPARTMENT OF
18 JUSTICE
19 CONSUMER PROTECTION BRANCH

20 GUSTAV W. EYLER
21 Director
22 Consumer Protection Branch

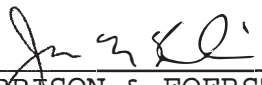
23 /S/

24 _____
25 ALLAN GORDUS
26 NATALIE N. SANDERS
27 MARYANN N. MCGUIRE
28 Trial Attorneys
Consumer Protection Branch
U.S. Department of Justice

September 7, 2022

_____ Date

15 FOR DEFENDANT GREE USA, INC.

16 
17 _____
18 MORRISON & FOERSTER LLP
19 JAMES M. KOUKIOS
20 SOPHIA H. CASH
21 YU HAN
22 On Behalf of Defendant
23 GREE USA, INC.

24 9/7/2022
25 _____
26 Date

Miscellaneous Filings

[2:21-cr-00498-DSF USA v. Gree Electric Appliances, Inc. of Zhuhai et al](#)

WESTERN,RELATED 1326,RELATED-G

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered by Johns, Joseph on 9/8/2022 at 9:26 AM PDT and filed on 9/8/2022

Case Name: USA v. Gree Electric Appliances, Inc. of Zhuhai et al

Case Number: [2:21-cr-00498-DSF](#)

Filer: USA

Document Number: [60](#)

Docket Text:

JOINT STATEMENT OF FURTHER INFORMATION IN RESPONSE TO DOCKET NOS. 41 AND 49 filed by Plaintiff USA as to Defendant Gree USA, Inc. (Johns, Joseph)

2:21-cr-00498-DSF-3 Notice has been electronically mailed to:

Arnold Allan Gordus , Jr allan.gordus@usdoj.gov, ocl.files@usdoj.gov, sherri.robinson2@usdoj.gov

Dan E. Marmalefsky dmarmalefsky@mofocom, dan-marmalefsky-8634@ecf.pacerpro.com, Docket-LA@mofocom, mmendoza@mofocom

James M. Koukios jkougios@mofocom

Joseph O. Johns joseph.johns@usdoj.gov, CaseView.ECF@usdoj.gov, USACAC.Criminal@usdoj.gov

Mark C Zebrowski mzebrowski@mofocom, ahyder@mofocom, DocketSD@mofocom, mark-zebrowski-6921@ecf.pacerpro.com

Maryann McGuire maryann.n.mcguire@usdoj.gov

Natalie N Sanders natalie.n.sanders@usdoj.gov, CaseView.ECF@usdoj.gov, Jonathan.A.Griffie@usdoj.gov, ocl.files@usdoj.gov

Sophia H. Cash scash@mofocom

Yu Han hhan@mofocom

2:21-cr-00498-DSF-3 Notice has been delivered by First Class U. S. Mail or by other means **BY**

THE FILER to :

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:N:\AUSA\AAJoseph Johns\to

File\2.21CR00498DSF.20220908JJ.Filing_Jnt_GreeUSA_Further_Information_Second_2022
0907_FINAL_for_filing.pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=9/8/2022] [FileNumber=34539566-0]

[1ddb8f20de28325f14fed3e7569c57ec7233edf25c86e7c6b6ebc6e115f9c8db848

3301a9c57c1831cd5d480383f6b77ab92cfec317940a24700286b08f9b7b]]