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**FILED**  
San Francisco County Superior Court

JAN 07 2020

CLERK OF THE COURT  
BY: *Chalene Polaris*  
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN FRANCISCO**

10 DANIEL GROVE, on behalf of himself and all  
11 others similarly situated and derivatively on  
12 behalf of JUUL LABS, INC.,

13 Plaintiff,

14 vs.

15 ADAM BOWEN, JAMES MONSEES,  
NICHOLAS J. PRITZKER, K.C.  
16 CROSTHWAITE, GUY CARTWRIGHT,  
17 JARED FIX, GERALD F. MASOUDI, KEVIN  
BURNS, TIMOTHY DANAHER, and DOES 1-  
18 25,

19 Defendants,

20 - and -

21 JUUL LABS, INC., a Delaware corporation,  
22 Defendant and Nominal Defendant.

Case No. **CGC-20-582059**  
Class Action

**SHAREHOLDER CLASS ACTION AND  
DERIVATIVE COMPLAINT FOR  
BREACH OF FIDUCIARY DUTY,  
AIDING AND ABETTING BREACH OF  
FIDUCIARY DUTY, VIOLATION OF  
CAL. CORP. CODE § 1601 ET SEQ.,  
UNJUST ENRICHMENT, ABUSE OF  
CONTROL, AND DECLARATORY  
AND INJUNCTIVE RELIEF**

DEMAND FOR JURY TRIAL

**BY FAX**

1 Plaintiff Daniel Grove, by his attorneys, alleges the following on information and belief, except  
2 as to the allegations specifically pertaining to Plaintiff, which are based on personal knowledge.

3 **NATURE AND SUMMARY OF THE ACTION**

4 1. Plaintiff brings this class action on behalf of the minority stockholders of JUUL Labs,  
5 Inc. ("JUUL" or the "Company") against JUUL and its Board of Directors (the "Board" or the  
6 "Individual Defendants") for breach of fiduciary duty, aiding and abetting breach of fiduciary duty,  
7 violation of Cal. Corp. Code § 1601 *et seq.*, unjust enrichment, abuse of control, and declaratory as well  
8 as injunctive relief. Defendants' actions are substantially unfair to JUUL's minority shareholders and  
9 have caused and will continue to cause significant damage to the Company and its shareholders.

10 2. JUUL designs, manufacturers, and markets electronic cigarettes and vaping products  
11 that are not approved by the Food and Drug Administration ("FDA").

12 3. The Company's officers and directors have abused their control of the Company to  
13 benefit themselves personally to the detriment of the Company's minority shareholders and have  
14 engaged in self-dealing and treated the minority shareholders disparately.

15 4. At the same time, the Defendants have breached their fiduciary duties and violated  
16 California law by failing to provide financial information, annual reports, and other basic information to  
17 the minority shareholders, thus inhibiting their ability to discover the true worth of their stock.

18 5. After negotiating a \$12.8 billion investment in the Company by Altria, Defendants paid  
19 themselves a special dividend/bonus, thus taking substantial liquidity out of the Company that could  
20 have been used for corporate purposes, but did not pay a dividend/bonus to all shareholders and usurped  
21 for themselves a disproportionate amount of the dividend/bonus. Additionally, the Defendants have  
22 treated the minority shareholders unfairly by imposing restrictions on their sale of Company stock –  
23 restrictions which do not apply to the Defendants or which they are free to waive due to their control of  
24 the Company.

25 6. Moreover, both before and after disbursement of the special dividend/bonus, the  
26 Defendants engaged in substantial wrongdoing, mismanagement, and breaches of fiduciary duty that  
27 resulted in an enormous decrease in the valuation of the Company, from \$38 billion a year ago to just  
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1 \$19 billion or less now. Indeed, Defendants' breaches of fiduciary duty were so severe that *Altria was*  
2 *forced to write-down the value of its \$12.8 billion investment by \$4.5 billion in less than a year.*

3 7. The Defendants' conduct represents a continuing course of conduct.

4 8. The Defendants' conduct is plagued by substantial conflicts of interest, and Defendants  
5 have abused their power and control for their own benefit and to the detriment of both the Company and  
6 its minority shareholders. The Defendants have also interfered with the voting rights of Plaintiff, which  
7 gives rise to direct claims.

8 9. JUUL is headquartered in San Francisco, California. JUUL is an electronic  
9 cigarette company that designs, manufactures, and distributes the JUUL e-cigarette, which  
10 packages nicotine salts from leaf tobacco into one-time use cartridges. Since its founding in 2015, the  
11 Company's JUUL e-cigarette has become the most popular e-cigarette in the United States.

12 10. JUUL is a private, not public, company. However, because their stock is not publicly-  
13 traded, and JUUL does not file its financial statements with the SEC, information about its financial  
14 results and the stock's value is not publicly available.

15 11. In recent years, Defendants, as Board members and senior executives, have  
16 compounded the informational disparity that exists between the Company and its minority shareholders  
17 by failing to hold annual meetings of shareholders, failing to provide minority shareholders with annual  
18 reports or other financial information, and by paying special dividends on the stock to themselves which  
19 are not paid to all shareholders.

20 12. As majority and controlling shareholders, Defendants owe fiduciary duties to Plaintiff  
21 and other minority shareholders to refrain from engaging in self-dealing and to ensure that minority  
22 shareholders are treated fairly. In any transaction in which Defendants derive a personal financial  
23 benefit, Defendants' conduct is subject to the exacting entire fairness standard, pursuant to which  
24 Defendants have the burden of demonstrating entire fairness to the minority shareholders, including fair  
25 dealing and fair price. The Individual Defendants owe fiduciary duties to the minority stockholders of  
26 the Company. Because the Defendants' conduct threatens irreparable harm to the Company's minority  
27 shareholders, Plaintiff seeks declaratory and injunctive relief as well as damages.

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**THE PARTIES**

19. Plaintiff Daniel Grove is a current shareholder of JUUL Labs, Inc. and has continuously owned JUUL stock at all relevant times. Plaintiff is a resident and citizen of California.

20. Defendant and Nominal Defendant JUUL Labs, Inc. is a Delaware corporation with its principal place of business at 560 20th Street, San Francisco, CA 94107. Upon information and belief, JUUL has approximately 1500 employees and revenues of approximately \$2 billion per year.

21. Defendant ADAM BOWEN (“Bowen”) is the Chief Technology Officer, a co-founder, and a member of the Board of JUUL. Bowen has been an officer & director of the Company at all relevant times. Bowen has used his control of the Company to allow himself to sell over \$500 million of the Company’s stock since the Company was founded. Defendant Bowen lives in San Mateo, California and is a resident and citizen of California.

22. Defendant JAMES MONSEES (“Monsees”) is the Chief Product Officer, a co-founder, and a member of the Board of Directors of JUUL. Monsees has been an officer and director of the Company at all relevant times. Monsees has used his control of the Company to allow himself to sell over \$500 million of the Company’s stock since the Company was founded. Monsees is a resident and citizen of San Francisco, California.

23. Defendant NICHOLAS J. PRITZKER is a Director of JUUL, and has been at all relevant times. Pritzker is a resident of San Francisco, CA.

24. Defendant K.C. CROSTHWAITE (“Crosthwaite”) is the Chief Executive Officer of JUUL. Crosthwaite has been an officer of the Company at all relevant times.

25. Defendant GUY CARTWRIGHT (“Cartwright”) is the Chief Financial Officer of JUUL. Cartwright has been an officer of the Company at all relevant times.

26. Defendant JARED FIX (“Fix”) is the Chief Commercial Officer of JUUL, and has been since November 2019. Fix was Chief Strategy Officer of JUUL from October 2018 to November 2019, and has been an officer of the Company at all relevant times. Fix is a resident and citizen of San Francisco, California.

27. Defendant GERALD F. MASOUDI (“Masoudi”) is the Chief Legal Officer of JUUL. Masoudi has been an officer of the Company at all relevant times.

1 28. Defendant KEVIN BURNS ("Burns") was the Chief Executive Officer of JUUL from  
2 December 2017 to September 2019. Burns has been an officer of the Company at relevant times.  
3 Defendant Burns is a resident and citizen of California.

4 29. Defendant TIMOTHY DANAHER ("Danaher") was the Chief Financial Officer and  
5 Corporate Secretary of JUUL from October 2014 to October 2019. Danaher has been an officer of the  
6 Company at relevant times.

7 30. The Defendants named in ¶¶ 21-29 are sometimes referred to herein as Individual  
8 Defendants.

9 31. The true names and identities, whether individual, associate or corporate, of the  
10 Defendants sued herein as Does 1 through 25 inclusive, and the full nature and extent of the  
11 participation of the said Doe Defendants in the activities and conduct on which this action is based, are  
12 presently unknown to Plaintiff. Plaintiff prays for leave to amend to allege the true names and  
13 identities, and the extent of participation in the wrongful activities and conduct, when the same shall  
14 become known.

#### 15 CLASS ACTION ALLEGATIONS

16 32. Plaintiff brings this action as a class action, pursuant to California Code of Civil  
17 Procedure § 382 on behalf of all minority stockholders of the Company (except the Defendants herein  
18 and any person, firm, trust, corporation, or other entity related to, or affiliated with, any of the  
19 Defendants and their successors in interest), who are or will be threatened with injury arising from  
20 Defendants' actions as more fully described herein (the "Class").

21 33. This action is properly maintainable as a class action because:

22 (a) The Class is so numerous that joinder of all members is impracticable. There are  
23 thousands of shares of the Company's common stock outstanding owned by hundreds, if not thousands,  
24 of JUUL stockholders;

25 (b) There are questions of law and fact which are common to the Class including,  
26 *inter alia*, the following: (i) whether the Individual Defendants have breached their fiduciary and other  
27 common law duties owed by them to Plaintiff and the other members of the Class; (ii) whether Plaintiff  
28 and the Class are being provided with all material information regarding their investments in JUUL

1 stock; (iii) whether the Individual Defendants are pursuing a scheme and course of business designed to  
2 eliminate the public minority stockholders of the Company in violation of their fiduciary duties in order  
3 to enrich themselves at the expense and to the detriment of Plaintiff and the other minority stockholders  
4 who are members of the Class; and (iv) whether the Class is entitled to declaratory and injunctive relief,  
5 as well as damages, as a result of Defendants' wrongful conduct;

6 (c) Plaintiff is committed to prosecuting this action and has retained competent  
7 counsel experienced in litigation of this nature;

8 (d) The claims of Plaintiff are typical of the claims of other members of the Class  
9 and Plaintiff has the same interests as the other members of the Class. Plaintiff will fairly and  
10 adequately represent the Class;

11 (e) Defendants have acted in a manner which affects Plaintiff and all members of the  
12 Class alike, thereby making appropriate injunctive relief and/or corresponding declaratory relief with  
13 respect to the Class as a whole; and

14 (f) The prosecution of separate actions by individual members of the Class would  
15 create a risk of inconsistent or varying adjudications with respect to individual members of the Class  
16 which would establish incompatible standards of conduct for Defendants, or adjudications with respect  
17 to individual members of the Class which would, as a practical matter, be dispositive of the interests of  
18 other members not parties to the adjudications or substantially impair or impede their ability to protect  
19 their interests.

#### 20 **DEFENDANTS' FIDUCIARY DUTIES**

21 34. In accordance with their duties of loyalty, care and good faith, the Individual  
22 Defendants, as officers and directors of JUUL, are obligated to refrain from:

23 (a) taking any action that adversely affects the value offered to the corporation's  
24 shareholders;

25 (b) participating in any transactions where the officers or directors' loyalties are  
26 divided;

1 (c) participating in any transactions where the officers or directors receive or are  
2 entitled to receive a personal financial benefit not equally shared by the minority shareholders of the  
3 corporation; and/or

4 (d) unjustly enriching themselves at the expense or to the detriment of the minority  
5 shareholders.\*

6 35. Plaintiff alleges herein that the Individual Defendants and JUUL, separately and  
7 together, are violating the fiduciary duties owed to Plaintiff and the other minority shareholders of  
8 JUUL, including their duties of loyalty, good faith and independence, insofar as they stand on both  
9 sides of the transaction and are engaging in self-dealing and obtaining for themselves personal benefits,  
10 including personal financial benefits, not shared equally by Plaintiff or the Class.

11 36. Because the Individual Defendants are breaching and have breached their duties of  
12 loyalty, good faith and independence, Defendants' conduct is subject to the "entire fairness" standard of  
13 review and Defendants have the burden of proving the inherent or entire fairness of the challenged  
14 transactions.

#### 15 **FRAUDULENT CONCEALMENT AND EQUITABLE TOLLING**

16 37. During the relevant period, Plaintiff did not discover and could not have discovered,  
17 through the exercise of due diligence, Defendants' breaches of their fiduciary duties or their violations  
18 of California law because Defendants did not disclose, and actively concealed, their conduct.

19 38. Plaintiff was unaware of and had no knowledge of Defendants' unlawful conduct.

20 39. Plaintiff could not have discovered Defendants' breaches of fiduciary duties and  
21 violations of law prior to filing suit because Defendants made absolutely no disclosure of their conduct,  
22 and failed to provide minority shareholders such as Plaintiff with annual reports or other information  
23 about JUUL during the relevant period. The only way Plaintiff discovered some of Defendants'  
24 wrongful conduct was through media reports which surfaced in the fall of 2019 disclosing a federal  
25 criminal investigation of the Company. *See, e.g.,* Makena Kelly, "Juul Is Under Criminal Investigation  
26 by Federal Prosecutors," THE VERGE, Sept. 23, 2019.

27 40. Defendants not only failed to disclose any information whatsoever that would have  
28 allowed Plaintiff, exercising due diligence, to discover the unlawful conduct, but Defendants also



1 intentionally concealed and attempted to disguise the unlawful conduct to avoid detection by the  
2 Company's minority shareholders.

### 3 **SUBSTANTIVE ALLEGATIONS**

4 41. JUUL designs, manufacturers, and markets electronic cigarettes and vaping products.  
5 The Company was spun off from a vaping startup called Pax Labs in 2017. The JUUL device, which  
6 resembles a USB flash drive, delivers a powerful dose of nicotine in a salt solution that smokers say  
7 closely mimics the feeling of inhaling cigarettes. The JUUL liquid's 5% nicotine concentration is higher  
8 than most other commercially available e-cigarettes. JUUL flavors originally included "Creme Brulee"  
9 and "Fruit Medley," which critics have said make it more attractive to minors.

10 42. The JUUL system is comprised of two components: (i) a vaporizer device and (ii)  
11 disposable pods that are prefilled with a proprietary mixture of vaporizer carriers, nicotine salt extracts,  
12 and flavoring (together, "e-liquid"). When a user inserts a pod into the device and inhales using the  
13 mouthpiece, the device rapidly heats the e-liquid, aerosolizing it to allow the user to inhale a puff of the  
14 vaporized e-liquid. The labels for both the JUUL e-cigarette and pods contain California Proposition 65  
15 warnings that the product contains a substance known to cause cancer.

16 43. However, the labels contain no warnings about the potential dangers of using JUUL  
17 products, including long-term effects of vaping and inhaling nicotine salts and flavored chemicals on  
18 the pulmonary, neurological, and cardiovascular systems. JUUL Labs, Inc. owns and operates  
19 juullabs.com and juulvapor.com where it markets, advertises, and sells e-cigarettes and pods.

20 44. JUUL is a controlled company, with Defendants controlling the voting stock in the  
21 Company. The Defendants thus owe the Company and its minority shareholders fiduciary duties.

22 45. Plaintiff is one of those minority shareholders. Plaintiff currently owns approximately  
23 5,000 shares of JUUL stock.

24 46. Because JUUL was and is a private company, not a publicly-traded company, there is  
25 no regular or efficient market for the sale of the stock.

26 47. JUUL is headquartered in California, and is thus required to comply with certain  
27 provisions of the California Corporations Code, including the obligation to hold annual meetings and  
28 provide annual reports. It has failed to do so.

1 48. JUUL was previously known as Pax Labs. On June 1, 2015, Pax Labs launched its  
2 JUUL vaping device at a launch party in New York City. A trove of images collected by Stanford  
3 researchers suggested that the campaign focused on a young audience. Guests were invited to try  
4 JUUL's products free and share selfies on social media, Business Insider reported. "Juul's launch  
5 campaign was patently youth-oriented," Robert Jackler, a practicing Stanford physician who was the  
6 principal investigator behind the tobacco-image collection, told a reporter with Business Insider.<sup>1</sup>

7 49. After the launch party in NYC, JUUL devices gained popularity. Sales rose 700% in  
8 2016.

9 50. Juul's products have become immensely popular among teenagers, raising concerns  
10 among the public health community that long-term declines in youth nicotine use are being reversed.  
11 An October 2018 study of 13,000 Americans found that 9.5% of teenagers aged 15–17 and 11% of  
12 young adults aged 18–21 currently use JUUL, and that teenagers age 15–17 are 16 times more likely to  
13 be JUUL users than 25–34 year olds. JUUL use is also very popular among middle school and high  
14 school students; with one in five students between 12 and 17 having seen a JUUL used in school.  
15 Teenagers use the verb "Juuling" to describe their use of JUUL.

16 51. The Individual Defendants caused JUUL to enlist the services of social media  
17 "influencers"— social media personalities with large followings — to promote JUUL's products.

18 52. Stanford University's investigation culminated in a report dated Jan. 31, 2019 entitled  
19 "JUUL Advertising Over its First Three Years on the Market" which included the following conclusion:  
20 "JUUL's advertising imagery in its first 6 months on the market was patently youth oriented. For the  
21 next 2 ½ years it was more muted, but the company's advertising was widely distributed on social  
22 media channels frequented by youth, was amplified by hashtag extensions, and catalyzed by  
23 compensated influencers and affiliates." The Stanford Report analyzed JUUL's marketing campaign  
24 between its launch in 2015 and fall 2018. The researchers scrutinized thousands of social media posts  
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26 <sup>1</sup> See Erin Brodwin, "The precarious path of e-cig startup Juul: From Silicon Valley darling to  
27 \$24 billion behemoth under criminal investigation," THE BUSINESS INSIDER, Oct. 31, 2019, available at  
28 <https://www.businessinsider.com/juul-timeline-from-startup-to-tobacco-company-challenges-bans-2019-9>.

1 (Instagram, Facebook, Twitter), emails to consumers, and ads (including internet-based ads JUUL has  
2 since deleted). Matt Myers, president of the Campaign for Tobacco-Free Kids observed: "It's  
3 impossible to review the data [in the Stanford paper] and conclude anything other than the marketing is  
4 the major reason this product became so popular among young people." As Massachusetts Attorney  
5 General Maura Healey said regarding her office's investigation into JUUL's marketing campaign: "This  
6 is about getting kids to start vaping, and make money and have them as customers for life."

7 53. As Stanford's Report found:

8 JUUL has employed influencers – social media users with sizable followings  
9 recruited to increase brand awareness and to inspire sales. Confirming that  
10 JUUL used influencers since its inception was a June 2015 listing for an  
11 Influencer Marketing Intern. The job description makes clear: "The Influencer  
12 Marketing Intern will create and manage blogger, social media and celebrity  
influencer engagements ... to build and nurture appropriate relationships with  
key influencers in order to drive positive commentary and recommendations  
through word of mouth and social media channels, etc."

13 Influencers are a form of paid promotion. For example, an influencer may  
14 earn \$1000 for each 100,000 followers. A particularly well-documented example  
15 is that of DonnySmokes (Donny Karle, age 21), whose JUUL "unboxing"  
16 YouTube video garnered some 52,000 views. With 120,000 subscribers on his  
17 YouTube channel, Mr. Karl was able to earn a good income stream from vapor  
companies before YouTube interrupted his channel. In October 2018, JUUL's  
website still requests applications to "Join the JUUL Influencers."<sup>2</sup>

18 54. On July 1, 2017, Defendants Monsees and Bowen spun out JUUL Labs as an  
19 independent company and named former Pax Labs CEO Tyler Goldman CEO. Defendants Monsees and  
20 Bowen sought to make JUUL's products successful by increasing the nicotine level of e-cigarettes,  
21 which previously had not caught on with smokers due to lower nicotine delivery levels.

22 55. By November 2017, Juul reported that it had sold 1 million units. The company also  
23 captured a third of the e-cigarette market, according to Nielsen data. The JUUL vaping device had  
24 become the best-selling e-cigarette device on the market.

25 56. On Dec. 11, 2017, CEO Tyler Goldman left JUUL. The Company replaced him with  
26 Defendant Kevin Burns.

27 <sup>2</sup>See Stanford Report at 19-20, available at  
28 [http://tobacco.stanford.edu/tobacco\\_main/publications/JUUL\\_Marketing\\_Stanford.pdf](http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf).

1           57.       From the beginning, the Individual Defendants were well aware that the Company's  
2 products would be subject to significant regulations and scrutiny, and eventually be subject to FDA  
3 rules and regulations. As the officers and directors of the Company, the Individual Defendants thus had  
4 a heightened fiduciary duty to ensure the Company's compliance with all applicable rules and  
5 regulations. They understood that increased governmental scrutiny or regulation of the Company's  
6 products could be very detrimental to the Company. As smokers themselves, Defendants Monsees and  
7 Bowen were well aware of the health risks of smoking and e-cigarettes.

8           58.       In May 2016, the FDA issued a final rule, effective August 8, 2016, that deemed  
9 electronic nicotine delivery systems — which includes e-cigarettes and the nicotine juices they use —  
10 subject to the FDA's regulatory authority. Under the rule, years of regulatory and legislative  
11 requirements in place for combustible cigarettes became applicable to e-cigarettes. Those regulations  
12 included, among other things, that new tobacco products could be marketed only after FDA review.

13           59.       The FDA gave JUUL and other e-cigarette manufacturers until 2022 to submit a  
14 premarket tobacco application. After public health and medical groups, including the American  
15 Academy of Pediatrics, filed suit, Judge Grimm in the United States District Court for the District of  
16 Maryland ordered the FDA to move up the deadline to May 2020.

17           60.       In response to mounting criticism and pressure, in November 2018, JUUL announced  
18 that it "stopped accepting retail orders for our Mango, Fruit, Crème, and Cucumber JUUL pods to the  
19 over 90,000 retail stores that sell our product." But, until recently, JUUL continued selling those flavors  
20 on its website and continued selling the highly-popular Mint flavor in retail stores. An April 2018  
21 survey indicated that JUUL's "cool" mint flavor was the third-most popular flavor amongst JUUL users  
22 aged 12-17.

23           61.       Defendants told the Company's employees and investors that JUUL's vaping products  
24 were safer than traditional cigarettes, and that JUUL sought to take away market share from "Big  
25 Tobacco" by developing its alternative products. The Company's employees and investors were thus  
26 shocked when Defendants orchestrated a massive investment in the Company by Altria Group, Inc.  
27 ("Altria") of \$12.8 billion in December 2018 for a 35% stake in the Company. Based on this  
28 investment, JUUL was valued at \$38 billion in December 2018.

1           62.       On April 3, 2019, the FDA announced an investigation into 35 cases of people suffering  
2 seizures after “vaping.” On August 29, 2019, the Wall Street Journal reported that the U.S. Federal  
3 Trade Commission was investigating whether JUUL used marketing practices to appeal e-cigarettes to  
4 minors. Several other federal and state investigations into health risks of vaping, as well as JUUL’s  
5 marketing practices, are ongoing.

6           63.       In June of 2019, San Francisco became the first major city to ban the sale and  
7 distribution of e-cigarettes that have not undergone pre-market review by the FDA. Juul’s e- cigarettes  
8 have not undergone that review. San Francisco City Attorney Dennis Herrera said the ban is a step  
9 toward preventing “another generation of San Francisco children from becoming addicted to nicotine.”

10          64.       In response, the Individual Defendants caused JUUL to contribute more than \$18  
11 million to a ballot initiative to overturn the ban. As criticism of JUUL’s actions grew, JUUL abruptly  
12 ended its support of the initiative in September 2019, after the initiative had qualified for the ballot. In  
13 early November 2019, San Franciscans voted down the JUUL-sponsored initiative. The ban is  
14 scheduled to go into effect on January 1, 2020.

15          65.       On July 24 and 25, 2019, the United States House of Representatives Committee on  
16 Oversight and Reform held hearings at which JUUL executives and anti-tobacco witnesses testified.  
17 The hearings sought to investigate “JUUL’s role in the youth nicotine addiction epidemic, marketing to  
18 youth, misleading health claims, and new partnerships with traditional tobacco companies.” The  
19 hearings included appearances from students and parents who testified that JUUL representatives spoke  
20 at their schools, telling students that JUUL was “totally safe,” “much safer than cigarettes,” and that a  
21 student “should mention JUUL to his [nicotine-addicted] friend.”

22          66.       In September 2019, Michigan banned flavored e-cigarettes. Michigan Governor  
23 Gretchen Whitmer ordered the ban in response to the state’s health department finding youth vaping  
24 constituted a public health emergency and marketing targeting youth. Whitmer banned misleading  
25 descriptions of vaping products as “clear,” “safe,” and “healthy.” “Companies selling vaping products  
26 are using candy flavors to hook children on nicotine and misleading claims to promote the belief that  
27 these products are safe,” Ms. Whitmer said. Bills to prohibit sales of flavored vaping products have  
28 been introduced in California and Massachusetts.

1           67.       On September 25, 2019, Altria announced that Philip Morris International Inc. had  
2 called off a reported \$200 billion merger with Altria, reportedly due to increasing scrutiny of vaping  
3 and Altria's 35% stake in JUUL.

4           68.       Defendants have breached their fiduciary duties of loyalty and good faith by preferring  
5 their own interests over those of the Company and taking action that has harmed the Company and its  
6 minority shareholders.

7           **A.       The Federal Government Alleges That Defendants Caused JUUL to Falsely**  
8           **Advertise that Vaping Is Safer than Smoking Traditional Cigarettes**

9           69.       On Monday, September 9, 2019, Federal health authorities alleged that JUUL  
10 unlawfully marketed its electronic cigarettes as a safer alternative to smoking, and ordered the  
11 Company to stop making unproven claims regarding its products.

12          70.       The FDA also increased its scrutiny of a number of key aspects of JUUL's business,  
13 forcing the Company to turn over documents on its marketing, educational programs and nicotine  
14 formula. The FDA action increased the legal pressure on JUUL, which has recently been besieged by  
15 scrutiny from state and federal officials since a recent surge in underage vaping. Federal law bans sales  
16 to those under 18. The FDA has been investigating JUUL for months but had not previously taken  
17 action against the Company.

18          71.       In a sternly worded warning letter, the FDA flagged various claims made by JUUL  
19 representatives, including that its products are "much safer than cigarettes." Currently no vaping  
20 product has been federally reviewed to be less harmful than traditional tobacco products.

21          72.       During Congressional testimony, Congress heard testimony from Phillip Fuhrman. By  
22 the ninth grade, Phillip Fuhrman was already addicted to JUUL, as were many of his friends. Some of  
23 them had reservations about using the e-cigarettes. But their concerns about vaping were quickly  
24 explained away by a speaker who visited their school in April 2018 to give a presentation about mental  
25 health and addiction. Fuhrman testified to Congress in July 2019 that the speaker said he was connected  
26 to Juul, and told the kids that e-cigarettes were "totally safe" and that the FDA would soon announce  
27 that Juul products were 99 percent safer than regular cigarettes.

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1           73.       These marketing techniques were common and well documented, according to Robert  
2 Jackler, a researcher at Stanford who studies e-cigarette marketing. “This has been going on for years,”  
3 says Jackler, who also testified at the two-day congressional hearing on e-cigarettes in July. He  
4 speculates the FDA is reacting to pressure from US Representative Raja Krishnamoorthi (D-Illinois),  
5 who chaired the hearing, and from Senator Dick Durbin (D-Illinois). Both Krishnamoorthi and Durbin  
6 have urged the FDA to take action in recent weeks to curb the youth vaping epidemic.

7           74.       On September 9, 2019, the FDA chastised JUUL for these and other scientifically  
8 unsubstantiated claims that advertise e-cigarettes as “modified risk tobacco products,” suggesting they  
9 are safe, relatively risk-free ways to quit smoking. Marketers can’t make those claims unless the FDA  
10 has reviewed the products and agrees that the company has rigorous scientific data to back them up. In a  
11 separate letter, the FDA requested JUUL turn over information about its youth marketing strategies and  
12 JUUL’s use of nicotine salts.

13           75.       In the past year, JUUL has tried to position its e-cigarettes as a tool to help adult  
14 smokers stop smoking, using the tagline “Make the Switch.” In a separate letter to the Company, the  
15 FDA said it is “concerned” that its campaign suggests “that using Juul products poses less risk or is less  
16 harmful than cigarettes”.

17           76.       “JUUL has ignored the law, and very concerningly, has made some of these statements  
18 in school to our nation’s youth,” said FDA acting commissioner Ned Sharpless, in a statement. In a  
19 letter to JUUL CEO Kevin Burns, FDA regulators said they were “troubled” by a number of other  
20 points raised at the congressional hearing. The letter cites congressional testimony that JUUL’s  
21 advertising “saturated social media channels frequented by underage teens,” and “used influencers and  
22 discount coupons to attract new customers.”

23           77.       Last year, JUUL closed down its social media sites. And under pressure, it voluntarily  
24 removed its fruit and dessert flavors from retail stores.

25           78.       The Individual Defendants breached their fiduciary duties by causing the Company to  
26 market its products through advertisements and representations that the use of the Company’s e-  
27 cigarettes and vaping devices was safer than traditional cigarettes, under circumstances where the  
28 Company lacked sufficient scientific proof and studies to substantiate the claims.

1           79.     Even after public health officials issued public warnings about the safety of the  
2 Company's products, the Individual Defendants failed to take action to protect the Company from  
3 liability and adverse government action. In March 2018, Dr. Johnathan Winickoff, the former chair of  
4 the American Academy of Pediatrics Tobacco Consortium, stated that "JUUL is already a massive  
5 public-health disaster and without dramatic action it's going to get much, much worse." Dr. Winickoff,  
6 who is also a pediatrician at Massachusetts General Hospital and Professor at Harvard Medical School  
7 also noted that: "[i]f you were to design your ideal nicotine-delivery device to addict a large numbers of  
8 United States kids, you'd invent JUUL."

9           80.     On April 10, 2019, the FDA Commissioner announced a possible link between seizures  
10 and e-cigarette use. The FDA's statement, entitled "Some E-cigarette Users Are Having Seizures, Most  
11 Reports Involving Youth and Young Adults," indicated that "The FDA has become aware that some  
12 people who use e-cigarettes have experienced seizures, with most reports involving youth or young  
13 adult users. The statement is available at [https://www.fda.gov/tobacco-products/ctp-newsroom/some-](https://www.fda.gov/tobacco-products/ctp-newsroom/some-e-cigarette-users-are-having-seizures-most-reports-involving-youth-and-young-adults)  
14 [e-cigarette-users-are-having-seizures-most-reports-involving-youth-and-young-adults](https://www.fda.gov/tobacco-products/ctp-newsroom/some-e-cigarette-users-are-having-seizures-most-reports-involving-youth-and-young-adults), last visited Dec.  
15 27, 2019.

16           81.     The Individual Defendants were also aware that Israel banned the import and sale of  
17 JUUL's e-cigarettes in August 2018, calling JUUL's high nicotine concentration levels "a danger to  
18 public health."

19           82.     As a result of the Individual Defendants' wrongdoing, the Company and its  
20 shareholders have been harmed. On November 19, 2019, New York Attorney General Letitia James  
21 filed a lawsuit against JUUL Labs, accusing the company of using deceptive marketing practices that  
22 targeted minors and misleading consumers about the safety of its products.

23           83.     The FDA has issued a warning letter to the Company.

24           84.     As of December 17, 2019, the Center for Disease Control has indicated that 54 persons  
25 have died from vaping-related diseases. Deaths have been recorded in the District of Columbia and in  
26 27 states.

27           85.     In addition, the Company has been sued by numerous consumers who have been  
28 harmed due to use of the Company's products. One such case filed against the Company is *Castro v.*



1 *Juul Labs, Inc.*, Case No. 19-CIV-05786 (Superior Court for the State of California, County of San  
2 Mateo), filed Sept. 30, 2019. The plaintiff asserts various common law claims against the Company for  
3 failure to warn about the health risks of the Company's products. *See also Smith v. Juul Labs, Inc.*,  
4 Case No. 3:19-cv-08375-WHO (N.D. Cal. Dec. 23, 2019) (same).

5 86. The Company has also been sued by several school districts (including Anaheim and  
6 Compton school districts in California) which seek damages for the costs related to underage vaping.  
7 *See, e.g., Mountain Grove School District v. Juul Labs, Inc.*, Case No. 3:19-cv-08402 (N.D. Cal. Dec.  
8 24, 2019).<sup>3</sup> The Mountain Grove School District complaint alleges that JUUL has unlawfully marketed  
9 its products to children, and that JUUL e-cigarettes' physical design is sleek, stylish, and easily  
10 concealed. In combination with JUUL's deceptive marketing, the complaint alleges that the e-  
11 cigarette's design portrayed the device as a "must have" tech product, not a life-threatening nicotine-  
12 delivery device. The small USB-shaped design enables users to conceal the e-cigarette or, if not  
13 concealed, the device is often mistaken for a USB flash drive. The JUUL's battery indicator light also  
14 gratuitously flashes in "party mode" when the user shakes the device. According to plaintiff Mountain  
15 Grove School District, that feature is not necessary to the proper functioning of the device and intended  
16 solely to make the product appeal to youth. The complaint also alleges that contrary to JUUL's  
17 repeated representations that each JUUL pod contains nicotine "approximately equivalent to 1 pack of  
18 cigarettes or 200 puffs," JUUL's products actually deliver doses of nicotine that are materially higher  
19 than combustible cigarettes, with the goal of increasing nicotine addiction in consumers using the  
20 product.

21 87. The Mountain Grove School District complaint also alleges that by delivering such  
22 potent doses of nicotine, JUUL products magnify the health risks posed by nicotine, significantly  
23 increase blood pressure, and place users at a heightened (and concealed) risk for stroke, heart attacks  
24 and other cardiovascular events.

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27 <sup>3</sup> *See also Fayette County Public Schools v. JUUL Labs, Inc. et al*, Docket No. 3:19-cv-08368  
28 (N.D. Cal. Dec 23, 2019).

1 88. Prior to releasing its new version of e-cigarette and JUULpods in 2015, the Individual  
2 Defendants caused JUUL to provide press outlets with information regarding the products, as well as  
3 free JUUL products. Among other websites that posted articles about JUUL prior to the product release,  
4 technology website TechCrunch posted a chart JUUL provided it that compares the results for two  
5 versions of the JUUL device: a generic “combustion cigarette” and a generic “traditional e-liquid.”  
6 According to Plaintiff Mountain Grove School District, both charts claimed that, at its peak, JUUL  
7 products deliver approximately 25% less nicotine to the blood than a combustible cigarette, which  
8 statement was allegedly false.<sup>4</sup> The statements in JUUL’s 2015 charts misrepresented the true nicotine  
9 delivered by JUUL’s products and the resulting increased risk of nicotine addiction and severe health  
10 consequences resulting from high levels of nicotine consumption.

11 89. The San Francisco Unified School District has also sued JUUL Labs, Inc., asserting  
12 similar claims. *See San Francisco Unified School District v. Juul Labs, Inc.*, Case No. 3:19-cv-08177  
13 (N.D. Cal. Dec. 16, 2019).

14 **B. Defendants Place Transfer Restrictions on Stock Held by Minority Shareholders**  
15 **But Allowed Defendants Bowen and Monsees to Sell at Least \$500 Million of Their**  
16 **Stock**

17 90. When controlling shareholders or officers or directors of a company provide  
18 opportunities for liquidity, they are required to provide equal opportunities for liquidity to all  
19 shareholders, including minority shareholders.

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25 <sup>4</sup> Plaintiff Mountain Grove School District also alleges in its complaint that JUUL further  
26 misrepresented the amount of nicotine delivered by its products, including JUUL’s comparisons of  
27 JUULpods to “1 pack of cigarettes or 200 puffs,” because JUUL’s nicotine salt proprietary formula  
28 delivers higher concentrations of nicotine to a user’s bloodstream, resulting in JUUL’s products actually  
having twice the nicotine level as traditional cigarettes. Defendants Monsees and Bowen had long  
sought to make JUUL’s products successful by increasing the nicotine level of e-cigarettes, which  
previously had not caught on with smokers due to lower nicotine delivery levels.

1           91.       At JUUL, Defendants Bowen and Monsees have used their control of JUUL to cash out  
2 hundreds of millions of dollars of their Company stock.<sup>5</sup> Indeed, prior to this year's significant drop in  
3 the value of JUUL stock, it was widely reported that Bowen and Monsees had become billionaires by  
4 selling a portion of their Company stock.

5           92.       Despite providing Bowen and Monsees with all the liquidity they demanded,  
6 Defendants provided no similar liquidity for minority shareholders. Indeed, minority shareholders are  
7 prohibited from selling their stock without Board approval, which has rarely if ever been granted.

8           93.       Because the Company's stock is not publicly traded, there is no liquid market for the  
9 stock.

10          94.       Under corporate law, the needs of all stockholders must be considered and addressed  
11 when corporate decisions are made to provide some form of liquidity. Through their disparate  
12 treatment of minority shareholders, Defendants have breached their fiduciary duties of loyalty and good  
13 faith and have engaged in self-dealing.

14           **C.     The Board's Failure to Provide Annual Reports or Other Financial Information**  
15           **to the Minority Shareholders**

16          95.       The Board has further breached its fiduciary duties of candor and good faith by failing  
17 to provide annual reports and financial information to the minority shareholders. Plaintiff has not  
18 received any annual report or financial information from JUUL.

19          96.       The Defendants' conduct represents a continuing course of misconduct.

20           **D.     Defendants Negotiate a Capital Infusion From Altria, But Then Use the Money to**  
21           **Pay Themselves Disproportionate Bonuses Instead of Making Necessary Capital**  
22           **Expenditures**

23          97.       In late 2018, JUUL announced a \$12.8 billion investment in the Company by Altria.

24          98.       In reality, a major purpose for the investment was to provide liquidity and a payday for  
25 Bowen, Monsees, and the other Defendants. JUUL had been founded to allegedly provide a safer

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26           <sup>5</sup> See Kathleen Chaykowski, "New Altria Deal Makes Juul Cofounders Billionaires," FORBES,  
27 Dec. 20, 2018 (noting that prior to Altria's investment in JUUL, Bowen and Monsees had each been  
28 allowed to sell at least \$500 million in JUUL stock), available at  
<https://www.forbes.com/sites/kathleenchaykowski/2018/12/20/new-altria-deal-makes-juul-cofounders-billionaires/#49f1f1f25a67>.

1 alternative to smoking traditional cigarettes, and thus the Company's employees were surprised by the  
2 major alliance with "Big Tobacco." As some JUUL employees have pointed out, the Altria deal could  
3 discredit the Company's proposition that it was striving to eliminate cigarettes by offering a safer  
4 alternative.<sup>6</sup>

5 99. Defendant Burns, the Company's CEO at the time, frankly admitted that "We  
6 understand the controversy and skepticism that comes with an affiliation and partnership with the  
7 largest tobacco company in the U.S."<sup>7</sup>

8 100. After the huge investment by Altria, the Individual Defendants breached their duties of  
9 loyalty by using the money disproportionately to pay themselves massive bonuses. They also failed to  
10 invest sufficient capital in the Company to strengthen JUUL's internal controls, R&D, and other  
11 projects, which, had they been made, would have protected the Company from the recent events that  
12 resulted in lawsuits, governmental investigations, and a \$19 billion decrease in the value of the  
13 Company.

#### 14 SUBSTANTIVE UNFAIRNESS

15 101. Defendants' conduct has been, and continues to be, substantively unfair to JUUL's  
16 minority shareholders.

17 102. The prior transactions between the Company and Defendants have also been  
18 substantively unfair. The Defendants obtained salaries, perquisites, bonuses and other payments that  
19 were obtained through mismanagement, self-dealing, and breaches of fiduciary duty. Moreover, the  
20 Individual Defendants breached their fiduciary duties of candor and good faith by failing to provide  
21 minority shareholders with all material information relevant to the value of JUUL stock, by failing to  
22 provide minority shareholders with similar liquidity for their stock comparable to that provided to  
23 Defendants, and by preferring their own interests over those of the Company. This conduct is  
24 continuing and threatens irreputable harm to Plaintiff and the Class. As a result, Plaintiff seeks a

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25 <sup>6</sup> See Kathleen Chaykowski, "New Altria Deal Makes Juul Cofounders Billionaires," FORBES,  
26 Dec. 20, 2018, available at <https://www.forbes.com/sites/kathleenchaykowski/2018/12/20/new-altria-deal-makes-juul-cofounders-billionaires/#49f1f1f25a67>.

27 <sup>7</sup> *Id.*

1 preliminary injunction enjoining JUUL and the Individual Defendants from engaging in any further  
2 self-dealing and an order requiring Defendants to disclose all material information about the Company  
3 and Defendants' transactions to Plaintiff and the Class.

#### 4 **PROCEDURAL UNFAIRNESS**

5 103. Defendants' continuing course of conduct is also procedurally unfair to the Company's  
6 minority shareholders.

7 104. Bowen and Monsees are using their control of the Company to cause the Board to  
8 rubber-stamp their self-dealing conduct. The Individual Defendants have all breached their duties of  
9 good faith, candor, and loyalty by failing to provide any information to minority shareholders, including  
10 failing to hold annual meetings of shareholders, failing to provide annual reports to minority  
11 shareholders, and failing to provide any other financial information about the Company to minority  
12 shareholders. Defendants, in stark contrast, have unfettered information about the Company and its  
13 financial condition.

14 105. Due to their positions as founders, officers, and/or directors of the Company,  
15 Defendants owe fiduciary duties of good faith, fair dealing, loyalty, candor, and due care to Plaintiff and  
16 the other members of the Class. As described herein, the Individual Defendants are breaching those  
17 fiduciary duties.

18 106. Defendants have clear and material conflicts of interest and are acting to better their  
19 own interests at the expense of JUUL's minority shareholders. Defendants are engaging in self-dealing  
20 and not acting in good faith toward Plaintiff and the other members of the Class.

#### 21 **THE ENTIRE FAIRNESS STANDARD APPLIES TO DEFENDANTS' CONDUCT**

22 107. In transactions between controlling shareholders and the Company and/or its minority  
23 shareholders, the entire fairness standard applies. That standard applies here because Defendants paid  
24 themselves millions of dollars of bonuses after Altria's investment in the Company in 2018. Due to the  
25 payments, the transactions with Altria represented self-interested transactions from which Defendants  
26 have derived and continue to derive substantial personal benefits.

27 108. The entire fairness standard places the burden of proof on Defendants to affirmatively  
28 demonstrate the entire fairness — both substantive fairness and procedural fairness — of the challenged

1 transactions. It is not Plaintiff's burden to demonstrate the unfairness of such transactions, although  
2 such unfairness is evident from the detailed allegations set forth herein.

3 109. Because Defendants cannot demonstrate either substantive or procedural fairness to  
4 their self-interested transactions, such transactions must be set aside and/or they must be ordered to pay  
5 damages to Plaintiff and the Class.

### 6 **DAMAGES TO JUUL**

7 110. In addition to directly harming Plaintiff and the Class, Defendants' misconduct has also  
8 harmed JUUL. Defendants used their control of JUUL to pay themselves huge bonuses when Altria  
9 made its investment in the Company in 2018, which cost the Company lost opportunities from investing  
10 the significant capital in higher and better uses which would have earned a return on investment. The  
11 Company has been damaged because using the capital infusion by Altria to expand the resources and  
12 capabilities of the Company would have helped to prevent the wrongdoing and mismanagement that has  
13 led to the governmental investigations and Congressional scrutiny, all of which has resulted in a multi-  
14 billion dollar decline in the value of the Company's stock.

15 111. The Defendants' mismanagement and wrongful conduct has also subjected the  
16 Company to lawsuits and governmental investigations. A former senior executive of the Company,  
17 Siddharth Breja, sued the Company in federal court in San Francisco, alleging that he was unlawfully  
18 retaliated against after he reported concerns about the health risks to consumers due to the Company  
19 shipping out vaping pods whose expiration dates had already occurred or were about to occur. He  
20 alleged that Defendants Burns and Danaher, the former CEO and CFO of the Company, respectively,  
21 had retaliated against him "with the full support of Juul's Board," and that Defendant Danaher had told  
22 him during work meetings that any concerns about expiration dates were unfounded since "Half our  
23 customers are drunk and vaping like mo-fo's, [so] who the f\*\*k is going to notice the quality of our  
24 pods." See *Breja v. Juul Labs, Inc.*, Case No. 3:19-cv-7148 (N.D. Cal.). As a result of the lawsuit,  
25 JUUL has been forced to spend, and will continue to expend, significant additional money in defense  
26 costs and litigation expenses.

1           112.     In addition, as noted *supra*, JUUL is currently under investigation by the FDA and the  
2 United States Justice Department, as a result of which the Company has already expended significant  
3 attorneys' fees and costs.

4           **A DEMAND ON JUUL'S BOARD WOULD BE FUTILE, AND THIS IS EXCUSED**

5           113.     Plaintiff has not made a demand on the Board to institute this action against Defendants  
6 because, for the reasons detailed above and as further set forth below, any such demand would be a  
7 futile and useless act.

8           114.     At the time this action was filed, JUUL's Board consisted of nine members, defendants  
9 Adam Bowen, James Monsees, K.C. Crosthwaite, Guy Cartwright, Jared Fix, and Gerald Masoudi as  
10 well as non-parties Joanna Engelke, Monika Fahlbusch, David Dickey, and Matt David.

11           115.     The facts detailed in this Complaint demonstrate that the JUUL Board is dominated and  
12 controlled by Defendants Bowen and Monsees. Demand is futile where controlling shareholders own  
13 voting stock of a company that allows them to control corporate actions, such as is the case with respect  
14 to Bowen and Monsees. Moreover, Bowen and Monsees' control is amply demonstrated by the facts  
15 alleged herein, including allowing themselves to sell at least \$500 million each of JUUL stock while  
16 denying similar opportunities for liquidity to the minority shareholders.

17           116.     Demand is excused as to Defendants Adam Bowen, James Monsees, K.C. Crosthwaite,  
18 Guy Cartwright, Jared Fix, and Gerald Masoudi because they are not independent and objective, and are  
19 completely dominated and controlled by Bowen and Monsees, who nominated them to the Board. Due  
20 to their voting control, Bowen and Monsees control all corporate action.

21           117.     Demand is also futile because a majority of the Board received improper personal  
22 financial benefits as part of the Altria investment. The directors are thus interested and are incapable of  
23 objectively considering a demand to bring suit. A pre-suit demand is therefore futile and excused.

24           118.     Demand is also futile because the wrongful acts complained of in this Complaint  
25 evidence a pattern of conduct showing a wholesale abandonment of Defendants' fiduciary duties.  
26 These acts, and the other improper acts set forth in this Complaint, which demonstrate a pattern of  
27 misconduct, were not the product of a valid or good faith exercise of business judgment, nor could they  
28 have been.

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**FIRST CAUSE OF ACTION**

**Direct Class Claim for Breach of Fiduciary Duty  
Against the Individual Defendants and DOES 1-25**

119. Plaintiff repeats and realleges each allegation set forth herein.

120. The Individual Defendants have violated their fiduciary duties of care, loyalty, candor, good faith, and independence owed to the minority shareholders of JUUL and have acted to put their personal interests ahead of the interests of JUUL's shareholders.

121. By the acts, transactions, and courses of conduct alleged herein, the Individual Defendants, individually and acting as a part of a common plan, have violated their fiduciary duties to the minority shareholders of the Company.

122. As demonstrated by the allegations above, the Individual Defendants failed to exercise the care required, and breached their duties of loyalty, good faith, candor, and independence owed to the minority shareholders of JUUL because, among other reasons:

(a) The Individual Defendants have failed to hold annual meetings and disseminate annual reports to Plaintiff and the Company's other minority shareholders, in violation of the law;

(b) Monsees and Bowen are attempting to coerce and intimidate the Board they control into doing what they want without adequate investigation and analysis;

(c) the Individual Defendants' conduct has decreased the value of the Company's stock by billions of dollars and the Individual Defendants are attempting to divest the minority shareholders of fair value for their JUUL stock without providing any information to the minority shareholders about the fair market value of their stock;

(d) the Individual Defendants are abdicating their fiduciary duties; and

(e) the Individual Defendants are failing to ensure disclosure of all material facts to JUUL's minority shareholders regarding JUUL's financial results, prospects, and all material facts regarding the Company and the value of their stock in the Company.

123. The Individual Defendants further violated their fiduciary duties by failing to recuse themselves from consideration of self-interested transactions between the Company and Altria, with whom they have disabling conflicts, and by failing to ensure a fair and adequate procedural and substantive process for transactions between Altria and the Company.



1 124. Because the Individual Defendants dominate and control the business and corporate  
2 affairs of JUUL, and are in possession of private corporate information concerning JUUL's assets,  
3 business, and future prospects, there exists an imbalance and disparity of knowledge and economic  
4 power between them and the minority shareholders of JUUL.

5 125. By reason of the foregoing acts, practices, and course of conduct, the Individual  
6 Defendants have failed to exercise ordinary care and diligence in the exercise of their fiduciary  
7 obligations toward Plaintiff and the other members of the Class.

8 126. As a result of the Individual Defendants' actions, Plaintiff and the Class have been and  
9 will be damaged in that they have not received similar liquidity opportunities for their stock as have the  
10 Individual Defendants and have been directly harmed with respect to the value of their shares of JUUL  
11 common stock.

12 127. Unless enjoined by this Court, the Individual Defendants will continue to breach their  
13 fiduciary duties owed to Plaintiff and the other members of the Class, and will continue to withhold  
14 annual reports and financial information from minority shareholders and continue to engage in self  
15 dealing, which will exclude the Class from its fair proportionate share of JUUL's valuable assets and  
16 businesses, and/or benefit them in the unfair manner complained of herein, all to the irreparable harm of  
17 the Class.

18 128. The Individual Defendants are engaging in self-dealing, are not acting in good faith  
19 toward Plaintiff and the other members of the Class, and have breached and are breaching their  
20 fiduciary duties to the members of the Class.

21 129. Plaintiff and the Class have no adequate remedy at law. Only through the exercise of  
22 this Court's equitable powers can Plaintiff and the Class be fully protected from the immediate and  
23 irreparable injury caused by Defendants' actions.

24 **SECOND CAUSE OF ACTION**

25 **Direct Class Claim for Aiding and Abetting Breaches of Fiduciary Duties**  
26 **Against the Individual Defendants and DOES 1-25**

27 130. Plaintiff incorporates by reference and realleges each and every allegation contained  
28 above, as though fully set forth herein.



1 for Plaintiff and the Class to determine the financial condition of the Company and fair value of their  
2 shares, and other wrongful conduct, as alleged herein.

3 138. Plaintiff seeks injunctive relief in the form of an order of mandamus requiring the  
4 Individual Defendants and JUUL Labs, Inc. to comply with applicable law, including the provisions of  
5 the Corporations Code requiring the Company to hold annual shareholder meetings and issue annual  
6 reports to the shareholders, and other appropriate relief.

7 139. Plaintiff also seeks a declaratory judgment that Defendants have breached their  
8 fiduciary duties to the Company and its minority shareholders.

9 **FOURTH CAUSE OF ACTION**

10 **Direct Individual Cause of Action for Violation of California Corporations Code**  
11 **§ 1601 *et seq.* Against Defendant JUUL Labs, Inc.**

12 140. Plaintiff incorporates by reference and realleges each and every allegation contained  
13 above, as though fully set forth herein, except for the prior causes of action.

14 141. Plaintiff is a shareholder of record of JUUL and has been a Company shareholder at all  
15 relevant times.

16 142. By lawful means, Plaintiff requested to inspect the books and records of the corporation  
17 pursuant to Cal. Corp. Code § 1601, but the corporation has wrongfully refused the request. Plaintiff  
18 noted a proper purpose for his inspection demand — to obtain information necessary to determine the  
19 value of his JUUL stock and to investigate breaches of fiduciary duty by Defendants and the Board. A  
20 true and correct copy of Plaintiff's inspection demand under Cal. Corp. Code § 1601 is attached hereto  
21 as **Exhibit A** and is incorporated herein by reference.

22 143. Plaintiff seeks an order of mandamus requiring the Company to comply with its  
23 obligations under Cal. Corp. Code § 1601 *et seq.*

24 144. Plaintiff also requests that, pursuant to Cal. Corp. Code § 1603, the Court "appoint one or  
25 more competent inspectors or accountants to audit the books and records kept in this state and  
26 investigate the property, funds and affairs of any domestic corporation or any foreign corporation  
27 keeping records in this state."

28 145. Plaintiff has no adequate remedy at law.

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**FIFTH CAUSE OF ACTION**

**Derivative Claim for Breach of Fiduciary Duty  
Against the Individual Defendants and DOES 1-25**

146. Plaintiff repeats and realleges each allegation set forth herein, except for the causes of action.

147. The Individual Defendants owe fiduciary duties to the Company due to their positions as officers, directors, and controlling shareholders of JUUL Labs, Inc.

148. The Individual Defendants have violated their fiduciary duties of care, loyalty, candor, good faith, and independence owed to JUUL and have acted to put their personal interests ahead of the interests of the Company.

149. By the acts, transactions, and courses of conduct alleged herein, the Individual Defendants, individually and acting as a part of a common plan, have violated their fiduciary duties to the Company.

150. As demonstrated by the allegations above, the Individual Defendants failed to exercise the care required, and breached their duties of loyalty, good faith, candor, and independence owed to JUUL because, among other reasons:

(a) the Individual Defendants' conduct has caused significant harm to the Company and has decreased the value of the Company's stock by billions of dollars;

(b) the Individual Defendants have abdicated their fiduciary duties; and

(c) the Individual Defendants have grossly mismanaged the Company and caused it to violate rules and regulations that are critical to the Company's operations and revenues.

151. The Individual Defendants further violated their fiduciary duties by failing to recuse themselves from consideration of self-interested transactions between the Company and Altria and misused the proceeds of the investment from Altria, siphoning off millions of dollars to themselves instead of investing the capital in uses that would have strengthened the Company and prevented it from violating the law and thus being exposed to the dozens of pending lawsuits against the Company.

152. The Individual Defendants dominate and control the business and corporate affairs of JUUL, and are in possession of private corporate information concerning JUUL's assets, revenues, and projections. The Individual Defendants, while in possession of full information about the Company,

1 consciously ignored red flags about the Company's violation of laws, and failed to cause the Company  
2 to comply with critical laws, thus exposing the Company to significant lawsuits and damages.

3 153. By reason of the foregoing acts, practices, and course of conduct, the Individual  
4 Defendants have failed to exercise ordinary care and diligence in the exercise of their fiduciary  
5 obligations toward Plaintiff and the other members of the Class.

6 154. As a result of the Individual Defendants' actions, the Company has been damaged.

7 **SIXTH CAUSE OF ACTION**

8 **Derivative Claim for Unjust Enrichment**  
9 **(Against the Individual Defendants and DOES 1-25)**

10 155. Plaintiff incorporates by reference and realleges each and every allegation contained  
11 above, as though fully set forth herein, except for the causes of action.

12 156. By their wrongful acts and omissions, the Individual Defendants and DOES 1-25 were  
13 unjustly enriched at the expense of and to the detriment of the Company. These defendants were  
14 unjustly enriched as a result of the compensation and benefits they received while breaching fiduciary  
15 duties owed to the Company. Each of these defendants received improper salaries, cash bonuses, and  
16 equity and stock option grants through their employment at the Company, as alleged herein.

17 157. Plaintiff, as shareholder and representative of the Company, seeks restitution from these  
18 defendants, and each of them, and seeks an order of this Court disgorging all profits, benefits, and other  
19 compensation obtained by these defendants, and each of them, from their wrongful conduct and  
20 fiduciary breaches.

21 158. Plaintiff, on behalf of the Company, has no adequate remedy at law.

22 **SEVENTH CAUSE OF ACTION**

23 **Derivative Claim for Abuse of Control**  
24 **(Against Defendants Monsees and Bowen)**

25 159. Plaintiff incorporates by reference and realleges each and every allegation contained  
26 above, as though fully set forth herein, except for the causes of action.

27 160. By virtue of their positions and financial holdings at the Company, defendants Monsees  
28 and Bowen exercised control over the Company and its operations, and owed duties as controlling

1 shareholders to the Company not to use their positions of control for their own personal interests and  
2 contrary to the Company's interests.

3 161. Defendants' conduct alleged herein constitutes an abuse of their ability to control and  
4 influence the Company, for which they are legally responsible.

5 162. As a result of Defendants' abuse of control, the Company has sustained and will continue  
6 to sustain damages and injuries for which it has no adequate remedy at law.

7 163. Because the acts of Defendants were done maliciously, oppressively, and with intent to  
8 defraud, Plaintiff on behalf of the Company is entitled to punitive and exemplary damages in an amount  
9 to be shown according to proof at the time of trial.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff, on behalf of himself and the Class, prays for the following judgment  
12 and relief:

13 A. Certifying this action as a class and derivative action and certifying Plaintiff as the Class  
14 representative and his counsel as Class counsel;

15 B. Enjoining, preliminarily and permanently, the JUUL Board from approving any further  
16 transactions with the Individual Defendants until such time as the Company ensures a fair and adequate  
17 procedural and substantive process;

18 C. An order of mandamus requiring the Company to hold annual meetings and disseminate  
19 annual reports to shareholders;

20 D. Directing that Defendants account to Plaintiff and the other members of the Class for all  
21 damages caused to them and account for all profits and any special benefits obtained as a result of their  
22 unlawful conduct and self-dealing;

23 E. Awarding punitive damages at the maximum amount permitted by law;

24 F. Awarding Plaintiff the costs and disbursements of this action, including a reasonable  
25 allowance for the fees and expenses of attorneys and experts; and

26 G. Granting Plaintiff and the other members of the Class such other and further relief as  
27 may be just and proper.

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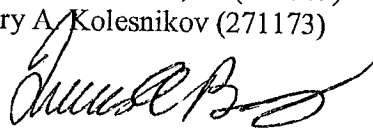
**JURY TRIAL DEMAND**

Plaintiff demands a trial by jury on all claims and issues so triable.

Dated: January 6, 2020

Respectfully submitted,

BOTTINI & BOTTINI, INC.  
Francis A. Bottini, Jr. (175783)  
Yury A. Kolesnikov (271173)



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*Counsel for Plaintiff Daniel Grove*