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8 *Counsel for Plaintiff*

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11 JARED BERTRIM, Individually and  
12 on behalf of all others similarly  
13 situated,

14 Plaintiff,

15 v.

16 TUPPERWARE BRANDS  
17 CORPORATION, PATRICIA A.  
18 STITZEL, CHRISTOPHER D.  
19 O'LEARY, CASSANDRA HARRIS,  
20 and MICHAEL POTESHMAN,

21 Defendants.

No.

**CLASS ACTION COMPLAINT  
FOR VIOLATIONS OF THE  
FEDERAL SECURITIES LAWS**

CLASS ACTION

JURY TRIAL DEMANDED

1 Plaintiff Jared Bertrim (“Plaintiff”), individually and on behalf of all other  
2 persons similarly situated, by Plaintiff’s undersigned attorneys, for Plaintiff’s  
3 complaint against Defendants (defined below), alleges the following based upon  
4 personal knowledge as to Plaintiff and Plaintiff’s own acts, and information and  
5 belief as to all other matters, based upon, *inter alia*, the investigation conducted  
6 by and through his attorneys, which included, among other things, a review of the  
7 Defendants’ public documents, conference calls and announcements made by  
8 Defendants, public filings, wire and press releases published by and regarding  
9 Tupperware Brands Corporation (“Tupperware” or the “Company”), and  
10 information readily obtainable on the Internet. Plaintiff believes that substantial  
11 evidentiary support will exist for the allegations set forth herein after a reasonable  
12 opportunity for discovery.

13 **NATURE OF THE ACTION**

14 1. This is a class action on behalf of persons or entities who purchased  
15 or otherwise acquired publicly traded Tupperware securities from January 30,  
16 2019 through February 24, 2020, inclusive (the “Class Period”). Plaintiff seeks to  
17 recover compensable damages caused by Defendants’ violations of the federal  
18 securities laws under the Securities Exchange Act of 1934 (the “Exchange Act”).

19 **JURISDICTION AND VENUE**

20 2. The claims asserted herein arise under and pursuant to Sections  
21 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule  
22 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

23 3. This Court has jurisdiction over the subject matter of this action  
24 pursuant to 28 U.S.C. § 1331, and Section 27 of the Exchange Act (15 U.S.C.  
25 §78aa).

26 4. This Court has jurisdiction over each defendant named herein  
27 because each defendant has sufficient minimum contacts with this District so as  
28

1 to render the exercise of jurisdiction by this Court permissible under traditional  
2 notions of fair play and substantial justice.

3 5. Venue is proper in this judicial district pursuant to 28 U.S.C. §  
4 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as the alleged  
5 misstatements entered and the subsequent damages took place in this judicial  
6 district.

7 6. In connection with the acts, conduct and other wrongs alleged in this  
8 complaint, Defendants, directly or indirectly, used the means and  
9 instrumentalities of interstate commerce, including but not limited to, the United  
10 States mails, interstate telephone communications and the facilities of the  
11 national securities exchange.

12 **PARTIES**

13 7. Plaintiff, as set forth in the accompanying Certification, purchased  
14 the Company's securities at artificially inflated prices during the Class Period and  
15 was damaged upon the revelation of the alleged corrective disclosure.

16 8. Defendant Tupperware operates as a direct-to-consumer marketer of  
17 various products across a range of brands and categories in Europe, Africa, the  
18 Middle East, the Asia Pacific, North America, and South America. The Company  
19 engages in the manufacture and sale of an array of products for consumers under  
20 the Tupperware brand name. The Company also manufactures and distributes  
21 skin and hair care products, cosmetics, bath and body care, toiletries, fragrances,  
22 jewelry, and nutritional products under the Avroy Shlain, Fuller, NaturCare,  
23 Nutrimetics, and Nuvo brands.

24 9. The Company is incorporated in Delaware with its principal  
25 executive offices located at 14901 South Orange Blossom Trail, Orlando, Florida.  
26 The Company's securities are traded on the New York Stock Exchange  
27 ("NYSE") under the ticker symbol "TUP."  
28

1           10. Defendant Patricia A. Stitzel (“Stitzel”) served as Tupperware’s  
2 Chief Executive Officer (“CEO”) and Lead Director during the Class Period until  
3 November 11, 2019.

4           11. Defendant Christopher D. O’Leary (“O’Leary”) has served as  
5 Tupperware’s Interim CEO since November 12, 2019 and as a Director  
6 throughout the Class Period.

7           12. Defendant Cassandra Harris (“Harris”) has served as Tupperware’s  
8 Chief Financial Officer (“CFO”) and Executive Vice President since April 1,  
9 2019.

10           13. Defendant Michael Poteshman (“Poteshman”) served as  
11 Tupperware’s CFO and Executive Vice President during the Class Period until  
12 March 31, 2019 and provided consulting services from March 31, 2019 to  
13 September 30, 2019.

14           14. Defendants Stitzel, O’Leary, Harris, and Poteshman are sometimes  
15 referred to herein as the “Individual Defendants.”

16           15. Each of the Individual Defendants:

- 17           (a) directly participated in the management of the Company;  
18           (b) was directly involved in the day-to-day operations of the  
19           Company at the highest levels;  
20           (c) was privy to confidential proprietary information concerning  
21           the Company and its business and operations;  
22           (d) was directly or indirectly involved in drafting, producing,  
23           reviewing and/or disseminating the false and misleading  
24           statements and information alleged herein;  
25           (e) was directly or indirectly involved in the oversight or  
26           implementation of the Company’s internal controls;  
27

28

- 1 (f) was aware of or recklessly disregarded the fact that the false
- 2 and misleading statements were being issued concerning the
- 3 Company; and/or
- 4 (g) approved or ratified these statements in violation of the federal
- 5 securities laws.

6 16. The Company is liable for the acts of the Individual Defendants and  
7 its employees under the doctrine of *respondent superior* and common law  
8 principles of agency because all of the wrongful acts complained of herein were  
9 carried out within the scope of their employment.

10 17. The scienter of the Individual Defendants and other employees and  
11 agents of the Company is similarly imputed to the Company under *respondent*  
12 *superior* and agency principles.

13 18. The Company and the Individual Defendants are referred to herein,  
14 collectively, as the “Defendants.”

15 **SUBSTANTIVE ALLEGATIONS**

16 **Materially False and Misleading**  
17 **Statements Issued During the Class Period**

18 19. On January 30, 2019, Tupperware issued a press release (the  
19 “January Press Release”) announcing its fourth quarter 2018 financial results. In  
20 the January Press Release, Tupperware provided a full-year 2019 guidance of  
21 \$3.86 to \$4.01 GAAP EPS (compared to \$3.11 from full-year 2018).

22 20. On February 26, 2019, Tupperware filed a Form 10-K for its fiscal  
23 year ended December 29, 2018 with the SEC (the “2018 Annual Report”), which  
24 provided the Company’s financial results and position. The 2018 Annual Report  
25 was signed by Defendants Stitzel and Poteshman. The 2018 Annual Report  
26 contained signed certifications pursuant to the Sarbanes-Oxley Act of 2002  
27

28

1 (“SOX”) by Defendants Stitzel and Poteshman attesting to the accuracy of  
2 financial reporting, the disclosure of any material changes to the Company’s  
3 internal controls over financial reporting, and the disclosure of all fraud.

4 21. The 2018 Annual Report provided the following, in pertinent part,  
5 regarding the Company’s internal controls:

6  
7 **Evaluation of Disclosure Controls and Procedures**

8 The Company maintains disclosure controls and procedures (as  
9 defined in Exchange Act Rules 13a-15(e) and 15(d)-15(e)) that are  
10 designed to ensure that information required to be disclosed in the  
11 Company's reports filed or submitted under the Exchange Act is  
12 recorded, processed, summarized and reported within the time  
13 periods specified in the Securities and Exchange Commission's rules  
14 and forms, and that such information is accumulated and  
15 communicated to the Company's management, including the Chief  
16 Executive Officer and the Chief Financial Officer, as appropriate to  
17 allow timely decisions regarding required disclosure. In designing  
18 and evaluating the disclosure controls and procedures, management  
19 recognized that controls and procedures, no matter how well  
20 designed and operated, can provide only reasonable assurance of  
21 achieving the desired control objectives.

22 *As of the end of the period covered by this report, management,  
23 under the supervision of the Company's Chief Executive Officer  
24 and Chief Financial Officer, evaluated the effectiveness of the  
25 design and operation of the Company's disclosure controls and  
26 procedures. Based upon that evaluation, the Chief Executive  
27 Officer and Chief Financial Officer concluded that the disclosure  
28 controls and procedures were effective as of December 29, 2018.*

23 **Management's Report on Internal Control Over Financial  
24 Reporting**

25 The Company's management is also responsible for establishing and  
26 maintaining adequate internal control over financial reporting as  
27 defined in Exchange Act Rule 13a-15(f). As of the end of the period  
28 covered by this report, management, under the supervision of the  
Company's Chief Executive Officer and Chief Financial Officer,

1 evaluated the effectiveness of the Company's internal control over  
2 financial reporting based on the framework in Internal Control-  
3 Integrated Framework (2013) issued by the Committee of Sponsoring  
4 Organizations of the Treadway Commission. Based upon that  
5 evaluation, *the Chief Executive Officer and Chief Financial Officer*  
6 *concluded that the Company's internal control over financial*  
7 *reporting was effective as of the end of the period covered by this*  
8 *report.* The effectiveness of the Company's internal control over  
9 financial reporting as of December 29, 2018 has been audited by  
10 PricewaterhouseCoopers LLP, an independent registered certified  
11 public accounting firm, as stated in its report which is included  
12 herein.

### 13 **Changes in Internal Controls**

14 There have been no significant changes in the Company's internal  
15 control over financial reporting during the Company's fourth quarter  
16 that have materially affected or are reasonably likely to materially  
17 affect its internal control over financial reporting, as defined in Rule  
18 13a-15(f) promulgated under the Securities Exchange Act of 1934, as  
19 amended.

20 (Emphasis added.)

21 22. On April 24, 2019, Tupperware issued a press release (the “April  
22 Press Release”) announcing its second quarter 2019 financial results. In the April  
23 Press Release, Tupperware provided a full-year 2019 guidance of \$3.65 to \$3.76  
24 GAAP EPS (compared to \$3.11 from full-year 2018).

25 23. On May 15, 2019, Tupperware filed a Form 10-Q for the quarterly  
26 period ended March 30, 2019 with the SEC (the “1Q 2019 10-Q”), which  
27 provided the Company’s financial results and position. The 1Q 2019 10-Q was  
28 signed by Defendant Harris. The 1Q 2019 10-Q contained signed certifications  
pursuant to SOX by Defendants Stitzel and Harris attesting to the accuracy of  
financial reporting, the disclosure of any material changes to the Company’s  
internal controls over financial reporting, and the disclosure of all fraud.

1           24. The 1Q 2019 10-Q provided the following, in pertinent part,  
2 regarding the Company's internal controls:

3           **Item 4. Controls and Procedures**

4           ***Evaluation of Disclosure Controls and Procedures***

5           The Company maintains disclosure controls and procedures (as  
6 defined in Exchange Act Rules 13a-15(e) and 15(d)-15(e)) that are  
7 designed to ensure that information required to be disclosed in the  
8 Company's reports filed or submitted under the Exchange Act is  
9 recorded, processed, summarized and reported within the time  
10 periods specified in the Securities and Exchange Commission's rules  
11 and forms, and that such information is accumulated and  
12 communicated to the Company's management, including the Chief  
13 Executive Officer and the Chief Financial Officer, as appropriate to  
14 allow timely decisions regarding required disclosure. In designing  
15 and evaluating the disclosure controls and procedures, management  
16 recognized that controls and procedures, no matter how well  
17 designed and operated, can provide only reasonable assurance of  
18 achieving the desired control objectives.

19           As of the end of the period covered by this report, management,  
20 under the supervision of the Company's Chief Executive Officer and  
21 Chief Financial Officer, evaluated the effectiveness of the design and  
22 operation of the Company's disclosure controls and procedures.  
23 Based upon that evaluation, *the Chief Executive Officer and Chief*  
24 *Financial Officer concluded that the design and operation of the*  
25 *disclosure controls and procedures were effective.*

26           ***Changes in Internal Controls***

27           There have been no significant changes in the Company's internal  
28 control over financial reporting during the Company's first quarter  
that have materially affected or are reasonably likely to materially  
affect its internal control over financial reporting, as defined in Rule  
13a-15(f) promulgated under the Securities Exchange Act of 1934, as  
amended ( the "Exchange Act").

(Emphasis added.)

25. On July 24, 2019, Tupperware issued a press release (the "July Press



1 Release”) announcing its second quarter 2019 results. In the July Press Release,  
2 Tupperware provided full-year 2019 guidance of \$2.94 to \$3.09 GAAP EPS  
3 (compared to \$3.11 from full-year 2018).

4 26. On August 1, 2019, Tupperware filed a Form 10-Q for the quarterly  
5 period ended June 29, 2019 with the SEC (the “2Q 2019 10-Q”), which provided  
6 the Company’s financial results and position. The 2Q 2019 10-Q was signed by  
7 Defendant Harris. The 2Q 2019 10-Q contained signed certifications pursuant to  
8 SOX by Defendants Stitzel and Harris attesting to the accuracy of financial  
9 reporting, the disclosure of any material changes to the Company’s internal  
10 controls over financial reporting, and the disclosure of all fraud.

11 27. The 2Q 2019 10-Q provided the following, in pertinent part,  
12 regarding the Company’s internal controls:

13 **Item 4. Controls and Procedures**

14 ***Evaluation of Disclosure Controls and Procedures***

15 The Company maintains disclosure controls and procedures (as  
16 defined in Exchange Act Rules 13a-15(e) and 15(d)-15(e)) that are  
17 designed to ensure that information required to be disclosed in the  
18 Company's reports filed or submitted under the Exchange Act is  
19 recorded, processed, summarized and reported within the time  
20 periods specified in the Securities and Exchange Commission's rules  
21 and forms, and that such information is accumulated and  
22 communicated to the Company's management, including the Chief  
23 Executive Officer and the Chief Financial Officer, as appropriate to  
24 allow timely decisions regarding required disclosure. In designing  
25 and evaluating the disclosure controls and procedures, management  
26 recognized that controls and procedures, no matter how well  
27 designed and operated, can provide only reasonable assurance of  
28 achieving the desired control objectives.

As of the end of the period covered by this report, management,  
under the supervision of the Company's Chief Executive Officer and  
Chief Financial Officer, evaluated the effectiveness of the design and  
operation of the Company's disclosure controls and procedures.  
Based upon that evaluation, ***the Chief Executive Officer and Chief***

1            ***Financial Officer concluded that the design and operation of the***  
2            ***disclosure controls and procedures were effective.***

3            ***Changes in Internal Controls***

4            There have been no significant changes in the Company's internal  
5            control over financial reporting during the Company's second quarter  
6            that have materially affected or are reasonably likely to materially  
7            affect its internal control over financial reporting, as defined in Rule  
8            13a-15(f) promulgated under the Securities Exchange Act of 1934, as  
9            amended (the "Exchange Act").

10           (Emphasis added.)

11           28. On October 30, 2019, Tupperware issued a press release (the  
12           “October Press Release”) announcing its third quarter 2019 results. In the October  
13           Press Release, Tupperware provided full-year 2019 guidance of \$1.93 to \$1.99  
14           GAAP EPS (compared to \$3.11 from full-year 2018).

15           29. On November 6, 2019, Tupperware filed a Form 10-Q for the  
16           quarterly period ended September 28, 2019 with the SEC (the “3Q 2019 10-Q”),  
17           which provided the Company’s financial results and position. The 3Q 2019 10-Q  
18           was signed by Defendant Harris. The 3Q 2019 10-Q contained signed  
19           certifications pursuant to SOX by Defendants Stitzel and Harris attesting to the  
20           accuracy of financial reporting, the disclosure of any material changes to the  
21           Company’s internal controls over financial reporting, and the disclosure of all  
22           fraud.

23           30. The 3Q 2019 10-Q provided the following, in pertinent part,  
24           regarding the Company’s internal controls:

25           **Item 4. Controls and Procedures**  
26           ***Evaluation of Disclosure Controls and Procedures***

27           The Company maintains disclosure controls and procedures (as  
28           defined in Exchange Act Rules 13a-15(e) and 15(d)-15(e)) that are  
                 designed to ensure that information required to be disclosed in the

1 Company's reports filed or submitted under the Exchange Act is  
2 recorded, processed, summarized and reported within the time  
3 periods specified in the Securities and Exchange Commission's rules  
4 and forms, and that such information is accumulated and  
5 communicated to the Company's management, including the Chief  
6 Executive Officer and the Chief Financial Officer, as appropriate to  
7 allow timely decisions regarding required disclosure. In designing  
8 and evaluating the disclosure controls and procedures, management  
9 recognized that controls and procedures, no matter how well  
10 designed and operated, can provide only reasonable assurance of  
11 achieving the desired control objectives. Further, because of the  
12 inherent limitations in all control systems, no evaluation of controls  
13 can provide absolute assurance that misstatements due to error or  
14 fraud will not occur or that all control issues and instances of fraud, if  
15 any, within the company will be detected.

16 As of the end of the period covered by this report, management,  
17 under the supervision of the Company's Chief Executive Officer and  
18 Chief Financial Officer, evaluated the effectiveness of the design and  
19 operation of the Company's disclosure controls and procedures.  
20 Based upon that evaluation, *the Chief Executive Officer and Chief  
21 Financial Officer concluded that the design and operation of the  
22 disclosure controls and procedures were effective.*

### 23 *Changes in Internal Controls*

24 There have been no significant changes in the Company's internal  
25 control over financial reporting during the Company's third quarter  
26 that have materially affected or are reasonably likely to materially  
27 affect its internal control over financial reporting, as defined in Rule  
28 13a-15(f) promulgated under the Securities Exchange Act of 1934, as  
amended (the "Exchange Act").

(Emphasis added.)

31. The 3Q 2019 10-Q provided the following, in relevant part, regarding  
the Company's credit agreement:

### *Credit Agreement*

On March 29, 2019, the Company and its wholly owned subsidiaries  
Tupperware Nederland B.V., Administradora Dart, S. de R.L. de

1 C.V., and Tupperware Brands Asia Pacific Pte. Ltd. [] amended and  
2 restated its multicurrency Credit Agreement, amended by  
3 Amendment No. 1 dated August 28, 2019 (so as amended, the  
4 "Credit Agreement") . . . The Credit Agreement replaces the credit  
5 agreement dated September 11, 2013 and as amended (the "Old  
6 Credit Agreement") and, ***other than an increased aggregate amount  
7 that may be borrowed, an improvement in the consolidated leverage  
8 ratio covenant and a slightly more favorable commitment fee rate,  
9 has terms and conditions similar to that of the Old Credit  
10 Agreement.*** The Credit Agreement makes available to the Company  
11 and the Subsidiary Borrowers a committed five-year credit facility in  
12 an aggregate amount of \$650 million (the "Facility Amount").

13 \* \* \*

14 ***The financial covenants provide for a maximum Consolidated  
15 Leverage Ratio of 3.75 to 1.0 and a minimum interest coverage  
16 ratio of 3.0 to 1.0 (defined as consolidated EBITDA divided by  
17 consolidated total interest expense).*** For purposes of the Credit  
18 Agreement, consolidated EBITDA represents earnings before  
19 interest, income taxes, depreciation and amortization, as adjusted to  
20 exclude unusual, non-recurring gains as well as non-cash charges and  
21 certain other items. ***As of September 28, 2019, and currently, the  
22 Company was in compliance with the financial covenants in the  
23 Credit Agreement.***

24 ***Under the Credit Agreement and consistent with the Old Credit  
25 Agreement, the Guarantor unconditionally guarantees all  
26 obligations and liabilities of the Company and the Subsidiary  
27 Borrowers relating to the Credit Agreement, supported by a security  
28 interest in certain "Tupperware" trademarks and service marks.***  
The Credit Agreement includes a trigger whereby the Company  
would be required to provide additional collateral and subsidiary  
guarantees if Moody's Investors Services, Inc. downgrades its  
existing ratings two notes or more or S&P Global Ratings  
downgrades its existing ratings one or more notches.

\* \* \*

1 At September 28, 2019, the Company had \$406.1 million of unused  
2 lines of credit, including \$324.9 million under the committed,  
3 secured Credit Agreement, and \$81.2 million available under various  
uncommitted lines around the world.

4 (Emphasis added.)

5  
6 32. The statements referenced in ¶¶19-31 above were materially false  
7 and/or misleading because they misrepresented and failed to disclose the  
8 following adverse facts pertaining to the Company's business, operational and  
9 financial results, which were known to Defendants or recklessly disregarded by  
10 them. Specifically, Defendants made false and/or misleading statements and/or  
11 failed to disclose that: (1) Tupperware lacked effective internal controls; (2) as a  
12 result, Tupperware would need to investigate Fuller Mexico's accounting and  
13 liabilities; (3) consequently, Tupperware would be unable to timely file its annual  
14 report on Form 10-K for its fiscal year 2019; (4) Tupperware did not properly  
15 account for its accounts payable and accrued liabilities at Fuller Mexico; (5)  
16 Tupperware provided overvalued earnings per share guidance; (6) Tupperware  
17 would need relief from its \$650 million Credit Agreement; and (7) as a result,  
18 Defendants' public statements were materially false and/or misleading at all  
19 relevant times.

20 **THE TRUTH EMERGES**

21 33. On February 24, 2020, after market hours, Tupperware issued a  
22 press release (the "February Press Release") announcing that the Company "will  
23 file a Form 12b-25 Notification of Late Filing with the Securities and Exchange  
24 Commission to provide a 15-calendar day extension within which to file its Form  
25 10-K for the fiscal year ended December 28, 2019". The February Press Release  
26 also announced the following, in pertinent part:  
27  
28

1 **GAAP diluted E.P.S. is expected to be in the range of breakeven to**  
2 **\$0.34 versus \$3.11 in the prior year.** The current year was  
3 negatively impacted by \$40 million for the non-cash impairment of  
4 goodwill and intangible assets and \$35 million of re-engineering  
5 costs

6 The Fuller Mexico full-year 2019 negative impact on an adjusted\*  
7 pre-tax basis is expected to be in the range of \$19-21 million

8 \* \* \*

9 Adjusted\* pre-tax return on sales is expected to be approximately  
10 10% or 12% excluding the Fuller Mexico impact, versus 14% in the  
11 prior year

12 Adjusted\* diluted E.P.S. is expected to be \$1.35-\$1.70 versus \$4.30  
13 in the prior year, including \$0.26 cents from foreign currency

14 \* \* \*

15 The Company experienced continued execution challenges and  
16 unfavorable macro-economic trends most notably in its core markets  
17 of Brazil, China, and U.S. & Canada. The impact on segment profit is  
18 expected to be approximately \$83 million or \$0.75 cents per share,  
19 excluding Fuller Mexico of \$19-21 million.

20 ***The Company is conducting an investigation primarily into the***  
21 ***accounting for accounts payable and accrued liabilities at its Fuller***  
22 ***Mexico beauty business to determine the extent to which these***  
23 ***matters may further impact results and to assess and enhance the***  
24 ***effectiveness of internal controls at this business.*** This matter is \$9-  
25 11 million of the total expected \$19-21 million full-year impact on an  
26 adjusted\* pre-tax basis. In addition, total impairments for Fuller  
27 Mexico are expected to be approximately \$31 million. The total pre-  
28 tax impact for 2019 is approximately \$50-52 million.

"While challenges in Brazil, China, and the U.S. & Canada  
businesses persisted in the fourth quarter in line with our  
expectations, our preliminary results were further affected by  
financial reporting issues in Fuller Mexico. ***We are working rapidly***

1 *to address these Fuller Mexico issues in order to finalize our 2019*  
2 *results.* We are also focused on facing the clear headwinds in our  
3 core markets and accelerating the pace at which we can achieve  
4 meaningful improvement in the business," said Chris O'Leary, the  
5 Company's Interim CEO.

6 \* \* \*

7 **Debt Covenant**

8 Based on the 2020 outlook, *the Company is forecasting a need for*  
9 *relief concerning its existing leverage ratio covenant in its \$650*  
10 *million Credit Agreement dated March 29, 2019 (the "Credit*  
11 *Agreement"), to avoid a potential acceleration of the debt, which*  
12 *could have a material adverse impact on the Company.* Approvals  
13 have been received, pending completion of final documentation, from  
14 participating banks to amend the maximum consolidated leverage  
15 (debt-to-EBITDA) in the Credit Agreement for the required relief. *In*  
16 *connection with the amendment, the Company and certain of its*  
17 *subsidiaries will provide additional collateral and subsidiary*  
18 *guarantees.*

19 (Emphasis added.)

20 34. On this news, shares in Tupperware’s stock fell \$2.61 per share, or  
21 over 45%, to close at \$3.11 per share on February 25, 2020, damaging investors.

22 35. As a result of Defendants’ wrongful acts and omissions, and the  
23 precipitous decline in the market value of the Company’s securities, Plaintiff and  
24 other Class members have suffered significant losses and damages.

25 **PLAINTIFF’S CLASS ACTION ALLEGATIONS**

26 36. Plaintiff brings this action as a class action pursuant to Federal Rule  
27 of Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons  
28 other than defendants who acquired Tupperware securities publicly traded on the  
NYSE during the Class Period, and who were damaged thereby (the “Class”).  
Excluded from the Class are Defendants, the officers and directors of

1 Tupperware, members of the Individual Defendants' immediate families and their  
2 legal representatives, heirs, successors or assigns and any entity in which  
3 Defendants have or had a controlling interest.

4 37. The members of the Class are so numerous that joinder of all  
5 members is impracticable. Throughout the Class Period, Tupperware securities  
6 were actively traded on the NYSE. While the exact number of Class members is  
7 unknown to Plaintiff at this time and can be ascertained only through appropriate  
8 discovery, Plaintiff believes that there are hundreds, if not thousands of members  
9 in the proposed Class.

10 38. Plaintiff's claims are typical of the claims of the members of the  
11 Class as all members of the Class are similarly affected by defendants' wrongful  
12 conduct in violation of federal law that is complained of herein.

13 39. Plaintiff will fairly and adequately protect the interests of the  
14 members of the Class and has retained counsel competent and experienced in  
15 class and securities litigation. Plaintiff has no interests antagonistic to or in  
16 conflict with those of the Class.

17 40. Common questions of law and fact exist as to all members of the  
18 Class and predominate over any questions solely affecting individual members of  
19 the Class. Among the questions of law and fact common to the Class are:

- 20 • whether the Exchange Act was violated by Defendants' acts as  
21 alleged herein;
- 22 • whether statements made by Defendants to the investing public  
23 during the Class Period misrepresented material facts about the  
24 financial condition and business of Tupperware;
- 25 • whether Defendants' public statements to the investing public during  
26 the Class Period omitted material facts necessary to make the  
27

28



1 statements made, in light of the circumstances under which they  
2 were made, not misleading;

- 3 • whether the Defendants caused Tupperware to issue false and  
4 misleading filings during the Class Period;
- 5 • whether Defendants acted knowingly or recklessly in issuing false  
6 filings;
- 7 • whether the prices of Tupperware securities during the Class Period  
8 were artificially inflated because of the Defendants' conduct  
9 complained of herein; and
- 10 • whether the members of the Class have sustained damages and, if so,  
11 what is the proper measure of damages.

12 41. A class action is superior to all other available methods for the fair  
13 and efficient adjudication of this controversy since joinder of all members is  
14 impracticable. Furthermore, as the damages suffered by individual Class  
15 members may be relatively small, the expense and burden of individual litigation  
16 make it impossible for members of the Class to individually redress the wrongs  
17 done to them. There will be no difficulty in the management of this action as a  
18 class action.

19 42. Plaintiff will rely, in part, upon the presumption of reliance  
20 established by the fraud-on-the-market doctrine in that:

- 21 • Tupperware shares met the requirements for listing, and were listed  
22 and actively traded on the NYSE, an efficient market;
- 23 • As a public issuer, Tupperware filed periodic public reports;
- 24 • Tupperware regularly communicated with public investors via  
25 established market communication mechanisms, including through  
26 the regular dissemination of press releases via major newswire  
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1 services and through other wide-ranging public disclosures, such as  
2 communications with the financial press and other similar reporting  
3 services;

- 4 • Tupperware's securities were liquid and traded with sufficient  
5 volume during the Class Period; and
- 6 • Tupperware was followed by a number of securities analysts  
7 employed by major brokerage firms who wrote reports that were  
8 widely distributed and publicly available.

9 43. Based on the foregoing, the market for Tupperware securities  
10 promptly digested current information regarding Tupperware from all publicly  
11 available sources and reflected such information in the prices of the securities,  
12 and Plaintiff and the members of the Class are entitled to a presumption of  
13 reliance upon the integrity of the market.

14 44. Alternatively, Plaintiff and the members of the Class are entitled to  
15 the presumption of reliance established by the Supreme Court in *Affiliated Ute*  
16 *Citizens of the State of Utah v. United States*, 406 U.S. 128 (1972), as Defendants  
17 omitted material information in their Class Period statements in violation of a  
18 duty to disclose such information as detailed above.

### 19 COUNT I

#### 20 **For Violations of Section 10(b) And Rule 10b-5 Promulgated Thereunder** 21 **Against All Defendants**

22 45. Plaintiff repeats and realleges each and every allegation contained  
23 above as if fully set forth herein.

24 46. This Count is asserted against Defendants is based upon Section  
25 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated  
26 thereunder by the SEC.  
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1           47. During the Class Period, Defendants, individually and in concert,  
2 directly or indirectly, disseminated or approved the false statements specified  
3 above, which they knew or deliberately disregarded were misleading in that they  
4 contained misrepresentations and failed to disclose material facts necessary in  
5 order to make the statements made, in light of the circumstances under which  
6 they were made, not misleading.

7           48. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that  
8 they:

- 9           • employed devices, schemes and artifices to defraud;
- 10          • made untrue statements of material facts or omitted to state  
11 material facts necessary in order to make the statements made,  
12 in light of the circumstances under which they were made, not  
13 misleading; or
- 14          • engaged in acts, practices and a course of business that  
15 operated as a fraud or deceit upon plaintiff and others similarly  
16 situated in connection with their purchases of Tupperware  
17 securities during the Class Period.

18           49. Defendants acted with scienter in that they knew that the public  
19 documents and statements issued or disseminated in the name of Tupperware  
20 were materially false and misleading; knew that such statements or documents  
21 would be issued or disseminated to the investing public; and knowingly and  
22 substantially participated, or acquiesced in the issuance or dissemination of such  
23 statements or documents as primary violations of the securities laws. These  
24 defendants by virtue of their receipt of information reflecting the true facts of  
25 Tupperware, their control over, and/or receipt and/or modification of  
26 Tupperware's allegedly materially misleading statements, and/or their  
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1 associations with the Company which made them privy to confidential  
2 proprietary information concerning Tupperware, participated in the fraudulent  
3 scheme alleged herein.

4 50. Individual Defendants, who are the senior officers and/or directors  
5 of the Company, had actual knowledge of the material omissions and/or the  
6 falsity of the material statements set forth above, and intended to deceive Plaintiff  
7 and the other members of the Class, or, in the alternative, acted with reckless  
8 disregard for the truth when they failed to ascertain and disclose the true facts in  
9 the statements made by them or other Tupperware personnel to members of the  
10 investing public, including Plaintiff and the Class.

11 51. As a result of the foregoing, the market price of Tupperware  
12 securities was artificially inflated during the Class Period. In ignorance of the  
13 falsity of Defendants' statements, Plaintiff and the other members of the Class  
14 relied on the statements described above and/or the integrity of the market price  
15 of Tupperware securities during the Class Period in purchasing Tupperware  
16 securities at prices that were artificially inflated as a result of Defendants' false  
17 and misleading statements.

18 52. Had Plaintiff and the other members of the Class been aware that the  
19 market price of Tupperware securities had been artificially and falsely inflated by  
20 Defendants' misleading statements and by the material adverse information  
21 which Defendants did not disclose, they would not have purchased Tupperware  
22 securities at the artificially inflated prices that they did, or at all.

23 53. As a result of the wrongful conduct alleged herein, Plaintiff and  
24 other members of the Class have suffered damages in an amount to be established  
25 at trial.

26 54. By reason of the foregoing, Defendants have violated Section 10(b)  
27 of the 1934 Act and Rule 10b-5 promulgated thereunder and are liable to the  
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1 plaintiff and the other members of the Class for substantial damages which they  
2 suffered in connection with their purchase of Tupperware securities during the  
3 Class Period.

4 **COUNT II**

5 **Violations of Section 20(a) of the Exchange Act**

6 **Against the Individual Defendants**

7 55. Plaintiff repeats and realleges each and every allegation contained in  
8 the foregoing paragraphs as if fully set forth herein.

9 56. During the Class Period, the Individual Defendants participated in  
10 the operation and management of Tupperware, and conducted and participated,  
11 directly and indirectly, in the conduct of Tupperware's business affairs. Because  
12 of their senior positions, they knew the adverse non-public information about  
13 Tupperware's misstatement of revenue and profit and false financial statements.

14 57. As officers and/or directors of a publicly owned company, the  
15 Individual Defendants had a duty to disseminate accurate and truthful information  
16 with respect to Tupperware's financial condition and results of operations, and to  
17 correct promptly any public statements issued by Tupperware which had become  
18 materially false or misleading.

19 58. Because of their positions of control and authority as senior officers,  
20 the Individual Defendants were able to, and did, control the contents of the  
21 various reports, press releases and public filings which Tupperware disseminated  
22 in the marketplace during the Class Period concerning Tupperware's results of  
23 operations. Throughout the Class Period, the Individual Defendants exercised  
24 their power and authority to cause Tupperware to engage in the wrongful acts  
25 complained of herein. The Individual Defendants therefore, were "controlling  
26 persons" of Tupperware within the meaning of Section 20(a) of the Exchange  
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1 Act. In this capacity, they participated in the unlawful conduct alleged which  
2 artificially inflated the market price of Tupperware securities.

3 59. By reason of the above conduct, the Individual Defendants are liable  
4 pursuant to Section 20(a) of the Exchange Act for the violations committed by  
5 Tupperware.

6 **PRAYER FOR RELIEF**

7 **WHEREFORE**, Plaintiff, on behalf of himself and the Class, prays for  
8 judgment and relief as follows:

9 (a) declaring this action to be a proper class action, designating plaintiff  
10 as Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of  
11 the Federal Rules of Civil Procedure and designating plaintiff's counsel as Lead  
12 Counsel;

13 (b) awarding damages in favor of plaintiff and the other Class members  
14 against all defendants, jointly and severally, together with interest thereon;

15 awarding plaintiff and the Class reasonable costs and expenses incurred in  
16 this action, including counsel fees and expert fees; and

17 (d) awarding plaintiff and other members of the Class such other and  
18 further relief as the Court may deem just and proper.

19 **JURY TRIAL DEMANDED**

20 Plaintiff hereby demands a trial by jury.  
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Dated: February 25, 2020

**THE ROSEN LAW FIRM, P.A.**

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