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**NO FEE PURSUANT TO
GOVERNMENT CODE § 6103**

9
10 *[Plaintiff's Counsel Continued on Next Page]*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF ALAMEDA

13 **PUBLICALLY FILED - REDACTED PURSUANT TO STIPULATION**

14
15 **THE PEOPLE OF THE STATE OF
CALIFORNIA**

Case No. RG19043543

16
17 Plaintiff,

18 v.

**FIRST AMENDED COMPLAINT FOR
PERMANENT INJUNCTION,
ABATEMENT, CIVIL PENALTIES, AND
OTHER EQUITABLE RELIEF**

19 **JUUL LABS, INC., ADAM BOWEN,
JAMES MONSEES, NICHOLAS
20 PRITZKER, RIAZ VALANI, HOYOUNG
21 HUH, AND DOES 6-100, INCLUSIVE.**

(Bus. & Prof. Code, §§ 17200, et seq., 17500,
et seq., 22950, et seq.; Cal. Civ. Code §§ 3479,
et seq.; Cal. Code Civ. Proc. § 731)

22 Defendants.

**[VERIFIED ANSWER REQUIRED UNDER
CODE CIV. PROC., § 446]**

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1 Plaintiff, the PEOPLE OF THE STATE OF CALIFORNIA, (hereinafter “the People”),
2 bring this action for the purpose of abating, enjoining, and preventing the acts and omissions of
3 Defendants that constitute violations of the laws preventing the sale and furnishing of tobacco
4 products to underage individuals, of the licensing, sale, and record keeping obligations regarding
5 tobacco products, of privacy rights for minors in the digital world, and laws prohibiting unfair and
6 unlawful business practices, false advertising, and public nuisance.

7 The People respectfully request that this Court use its equitable and legal authority to
8 permanently enjoin these unlawful, unfair, and fraudulent practices; provide restitution to redress
9 the considerable harm Defendants have caused California’s consumers; and impose civil penalties
10 to hold JUUL Labs, Inc. (“JLI”), co-founders, and certain members of its board of directors
11 accountable for their unlawful conduct.

12 I. PARTIES

13 A. PLAINTIFF

14 1. Plaintiff is the People of the State of California. Plaintiff brings this action by and
15 through Rob Bonta, Attorney General of the State of California (“Attorney General”), Rodrigo A.
16 Castro-Silva, County Counsel for the County of Los Angeles, and George Gascon, District
17 Attorney for the County of Los Angeles.

18 2. Plaintiff, the State of California, by and through Attorney General Rob Bonta, brings
19 this action. The Attorney General is the chief law officer of the State and has the authority to file
20 civil actions in order to protect public rights and interests. Cal. Const., art. V, § 13; Cal. Bus. &
21 Prof. Code § 321. The Attorney General is further authorized by California Business and
22 Professions Code sections 22950.5(b) and 22963(f), to enforce the Stop Tobacco Access to Kids
23 Enforcement (“STAKE”) Act, Business and Professions Code sections 22950, et seq., and to
24 assess civil penalties for violations of the STAKE Act pursuant to the schedules in Business and
25 Professions Code sections 22958(a)(1) and 22963(f).¹ The Attorney General is authorized by
26 Business and Professions Code sections 17204 and 17535 to obtain injunctive relief to halt
27 violations of, and enforce compliance with, Business and Professions Code section 17200 et seq.,

28 ¹ All further statutory references are to California statutes.

1 and Business and Professions Code section 17500 et seq., respectively. The Attorney General is
2 authorized by Business and Professions Code sections 17206 and 17536 to obtain civil penalties
3 of up to \$2,500 for each violation of sections 17200 and 17500, respectively. The Attorney
4 General is authorized under Civil Code section 3494 to obtain preliminary and permanent
5 injunctions to abate any public nuisance present in the State of California as defined by Civil
6 Code sections 3479 and 3480. The Attorney General is authorized by Revenue and Taxation
7 Code section 30101.7(g) to bring actions to enforce compliance with collection of applicable state
8 surtaxes, sales or use taxes, and other payment obligations for tobacco products sold to California
9 residents and is authorized to obtain civil penalties according to the schedule in set forth in the
10 same section. This challenge is brought pursuant to the Attorney General's independent
11 constitutional, statutory, and common law authority to represent the public interest.

12 3. The State of California has an interest in promoting the health of its residents,
13 especially its children. To that end, California seeks to reduce the illegal sales of tobacco
14 products to individuals under 21 years of age. Smoking is the leading preventable cause of death
15 in the United States.

16 4. George Gascon is the District Attorney for the County of Los Angeles. The District
17 Attorney is authorized by California Business and Professions Code sections 22950.5(b) and
18 22963(f), to enforce the Stop Tobacco Access to Kids Enforcement ("STAKE") Act, Business
19 and Professions Code sections 22950, et seq., and to assess civil penalties for violation of the
20 STAKE Act pursuant to the schedules in Business and Professions Code sections 22958(a)(1) and
21 22963(f). The District Attorney is authorized by Business and Professions Code sections 17204
22 and 17535 to obtain injunctive relief to halt violations of, and enforce compliance with, Business
23 and Professions Code section 17200 et seq., and Business and Professions Code section 17500 et
24 seq., respectively. The District Attorney is authorized by Business and Professions Code sections
25 17206 and 17536 to obtain civil penalties of up to \$2,500 for each violation of sections 17200 and
26 17500, respectively. The District Attorney is authorized under Code of Civil Procedure section
27 731, Government Code section 26528, and Civil Code section 3494 to obtain preliminary and
28 permanent injunctions to abate any public nuisance present in the State of California as defined

1 by Civil Code sections 3479 and 3480. The District Attorney is authorized by Revenue and
2 Taxation Code section 30101.7(g) to bring actions to enforce compliance with collection of
3 applicable state surtaxes, sales or use taxes, and other payment obligations for tobacco products
4 sold to California residents and is authorized to obtain civil penalties according to the schedule in
5 set forth in the same section.

6 5. Rodrigo A. Castro-Silva is the County Counsel for Los Angeles County. County
7 Counsel is authorized by Civil Code sections 3479, 3480, 3490, 3491, 3494, and the Code of
8 Civil Procedure section 731, to abate public nuisances. County Counsel is authorized under Civil
9 Code section 731 to obtain preliminary and permanent injunctions to abate any public nuisance
10 present in the County as defined by Civil Code sections 3480. County Counsel is authorized by
11 Business and Professions Code section 17535 to obtain injunctive relief to halt violations of, and
12 to enforce compliance with, Business and Professions Code section 17500. County Counsel is
13 authorized by Business and Professions Code section 17536 to obtain civil penalties of up to
14 \$2,500 for each violation of Business and Professions Code section 17500.

15 **B. DEFENDANTS**

16 6. Defendant JUUL Labs, Inc. transacts and has transacted business in the County of
17 Alameda, County of Los Angeles, and throughout the State of California. The violations of law
18 described herein have been committed in the County of Alameda, County of Los Angeles, and
19 throughout the State of California.

20 7. Defendant JUUL Labs, Inc. (hereinafter “JLI”) is a Delaware Corporation, and had its
21 principal place of business in San Francisco, California. In 2020, JLI moved its headquarters to
22 Washington, D.C.

23 8. Prior to 2017, JLI was a part of PAX Labs, Inc. However, JLI has since become a
24 separate company. JLI focuses on nicotine-containing products and is a tobacco product
25 manufacturer, distributor, and retailer that has sold and continues to sell its products to members
26 of the public, in stores and over the internet, in Alameda County and Los Angeles County and
27 throughout the State of California. JLI also advertised and continues to advertise in Alameda
28

1 County and Los Angeles County and throughout the State of California through social media,
2 print media and other promotional campaigns.

3 9. Adam Bowen, originally sued as Doe 1, is a resident of the San Francisco Bay Area.
4 He co-founded the company that would become JLI with James Monsees. At all relevant times,
5 Bowen served as the Chief Technology Officer and as a member of the Board of JLI or its
6 predecessors.

7 10. Defendant James Monsees, originally sued as Doe 2, is a resident of the San
8 Francisco Bay Area. In 2007 he co-founded the company that would become JLI with Adam
9 Bowen. Monsees served as Chief Executive Officer of JLI until October 2015, when he
10 transferred into the position of Chief Product Officer. At all relevant times, he was a board
11 member of JLI (or one of its predecessors) until he stepped down in March 2020.

12 11. Defendant Nicholas Pritzker, originally sued as Doe 3, is a resident of the San
13 Francisco Bay Area, California, and a member of the Pritzker family, which owned the chewing-
14 tobacco giant Conwood before selling it to Reynolds American, Inc., a subsidiary of British
15 American Tobacco. He served as president of the Hyatt Hotels Corporation and was a member of
16 its Board of Directors from 1980 to 2007. More recently, he co-founded Tao Capital, an early
17 investor in, among other companies, Tesla Motors and Uber. In 2011, he invested in JLI. He has
18 been on the Board of Directors of JLI since at least August 2013. At least from October 2015 to
19 August 2016, he was on the Executive Committee of the Board of Directors and served as Co-
20 Chairman. He controlled two of JLI's seven board seats.

21 12. Defendant Riaz Valani, originally sued as Doe 4, is a resident of the San Francisco
22 Bay Area. He is a general partner at Global Asset Capital, a San Francisco-based private equity
23 investment firm. He first invested in JLI in 2007, and has been on the Board of Directors of JLI
24 since at least 2007. At least from October 2015 to August 2016, he was on the Executive
25 Committee of the Board of Directors. He controlled two of JLI's seven Board seats. Valani was
26 considered a particularly involved board member and was very active in the early stages of JLI's
27 formation.

1 13. Defendant Hoyoung Huh, originally sued as Doe 5, currently lives in Florida. During
2 most of the relevant time period, he lived and worked in the Silicon Valley area, California. He
3 holds an M.D. from Cornell and a Ph.D. in Genetics/Cell Biology from Cornell/Sloan-Kettering.
4 He has been CEO or a Board member of numerous biotechnology businesses, including Geron
5 Corporation. Huh joined the Board of Directors of JLI by June 2015. At least from October 2015
6 to August 2016, he was on the Executive Committee of the Board of Directors. Huh occupied
7 defendant Pritzker's second board seat.² Huh resigned from JLI's board in May 2018.

8 14. Defendants Bowen, Monsees, Pritzker, Valani, and Huh are referred to collectively as
9 the "Management Defendants."

10 15. The true names and capacities of Defendants sued herein as DOES 6 through 100,
11 inclusive, are unknown to the People, who therefore sue said Defendants by such fictitious names.
12 When the true names and capacities of said Defendants have been ascertained, the People will ask
13 leave of the court to amend this first amended Complaint to insert in lieu of such fictitious names
14 the true names and capacities of said fictitiously named Defendants.

15 16. At all relevant times, each of the Defendants was acting as an agent, servant,
16 assignee, representative, partner, joint venture partner, co-conspirator, or employee of the other
17 Defendants, and, in doing the acts alleged herein, was acting within the course and scope of said
18 agency, service, assignment, representation, partnership, joint venture, conspiracy, or
19 employment. Due to the relationship between the Defendants, each of the Defendants has
20 knowledge or constructive notice of the acts of each of the other Defendants.

21 17. In committing the acts and omissions alleged herein, each of the Defendants caused,
22 aided, abetted, facilitated, encouraged, authorized, permitted and/or ratified the wrongful acts and
23 omissions of the other Defendants.

24 18. In this first amended Complaint, when reference is made to any act or omission of
25 each of the Defendants, such allegations shall include the acts and omissions of owners, officers,
26 directors, agents, employees, contractors, vendors, affiliates, and representatives of said
27

28 ² JLI01382309.

1 Defendants while acting within the course and scope of their employment or agency on behalf of
2 said Defendants.

3 **II. JURISDICTION AND VENUE**

4 19. This Court has jurisdiction pursuant to article VI, section 10 of the California
5 Constitution and section 393 of the Code of Civil Procedure.

6 20. This Court has jurisdiction over Defendant JLI because JLI had its principal places of
7 business in California. Each of the Defendants intentionally avails itself of the California market
8 so as to render the exercise of jurisdiction over it by the California courts consistent with
9 traditional notions of fair play and substantial justice.

10 21. Defendants Bowen, Monsees, Pritzker, and Valani reside within the San Francisco
11 Bay Area and are subject to the jurisdiction of this Court. Defendant Huh resided in the San
12 Francisco Bay Area when he engaged in the conduct alleged herein.

13 22. The violations of law alleged in this first amended Complaint occurred in the
14 Counties of Alameda and Los Angeles and elsewhere throughout California.

15 23. Venue is proper in this county pursuant to Code of Civil Procedure section 393,
16 subdivision (a), in that Defendants' marketing and sales activities included the County of
17 Alameda and therefore Defendants' liability arises in the County of Alameda.

18 **III. TOLLING**

19 24. JLI and the People entered into a written agreement tolling any applicable statutes of
20 limitation during the period from June 28, 2019 through the date of the filing of the original
21 Complaint.

22 **IV. STATUTORY AND REGULATORY BACKGROUND**

23 25. Electronic cigarettes are heavily regulated at the federal, state, and local levels. The
24 Food Drug Administration ("FDA") regulates electronic cigarettes in various ways, including
25 through manufacturer and product registration, setting product standards and required warnings,
26 and ensuring that modified risk health or exposure claims and cessation claims are not made
27 without prior FDA approval. To date, no electronic cigarette has received FDA approval to make
28

1 a cessation or modified risk claim. Upon information and belief, JLI has submitted a Premarket
2 Tobacco Product Application for JUUL products.

3 26. The FDA issued its foundational rule, to regulate electronic cigarettes and certain
4 other tobacco products on August 8, 2016, titled “Deeming Tobacco Products to be Subject to the
5 Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and
6 Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and
7 Required Warning Statements for Tobacco Products” (21 Code of Federal Regulation parts 1100,
8 1140 and 1143 (2016)).

9 27. As a result of this rulemaking, on August 8, 2016, it became illegal in all states to sell
10 electronic cigarettes to people younger than 18.³ Retailers also became legally responsible for
11 requiring age verification by photo ID for individuals under 27 before the sale of a tobacco
12 product.

13 28. The State of California has enacted a strong statutory framework governing the use,
14 sale, distribution, licensing and taxation of electronic cigarettes. Since 2016, under California
15 law, a “tobacco product” means “a product containing, made, or derived from tobacco or nicotine
16 that is intended for human consumption [including] an electronic device that delivers nicotine or
17 other vaporized liquids to the person inhaling from the device, including, but not limited to, an
18 electronic cigarette, cigar, pipe, or hookah...” (Bus. & Prof. Code, § 22950.5, subd. (d)(1);
19 Health & Saf. Code, § 104495, subd. (a)(8)(A).) California law also defines “electronic
20 cigarettes” as “any device or delivery system sold in combination with nicotine which can be used
21 to deliver to a person nicotine in aerosolized or vaporized form, including, but not limited to, an
22 e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah . . . includ[ing] any component, part, or
23 accessory of such a device that is used during the operation of the device when sold in
24 combination with any liquid or substance containing nicotine . . . [and] also include[s] any liquid
25 or substance containing nicotine, whether sold separately or sold in combination with any device
26

27
28 ³ In California, the sale of electronic cigarettes to individuals under 18 was illegal since
2010. (Health & Saf. Code, § 119405.)

1 that could be used to deliver to a person nicotine in aerosolized or vaporized form.” (Rev. & Tax.
2 Code, § 30121, subd. (c).)

3 29. California law imposes several restrictions to prevent youth access to electronic
4 cigarettes. For example, the sale of electronic cigarettes to persons under age 21 is prohibited
5 (except for active duty military personnel over the age of 18). (Bus. & Prof. Code, §§ 22958,
6 subd. (a) and 22963, subd. (a); Penal Code, § 308, subd. (a)(1)(A).) In raising the minimum age,
7 the legislature found “that reducing and eventually eliminating the illegal purchase and
8 consumption of tobacco products by any person under 21 years of age is critical to ensuring the
9 long-term health of our state's citizens.” (Bus. & Prof. Code, § 22951.) Further, California law
10 requires that electronic cigarette cartridges and solutions for filling electronic cigarettes be sold in
11 child-resistant packaging. (Health & Saf. Code, § 119406.)

12 30. Delivery sale, distribution, or nonsale distribution (e.g., mail, phone, online) of
13 electronic cigarettes through the U.S. Postal Service or any other public or private postal service
14 is prohibited unless the age of the purchaser is verified to be 21 years or older at time of purchase.
15 (Bus. & Prof. Code, § 22963, subds. (a)-(b).) Such delivery sales are commonly referred to as
16 “remote sales,” in contrast to face-to-face in person sales that occur at the brick-and-mortar retail
17 location.

18 31. California law requires manufacturers, importers, distributors, wholesalers and
19 retailers of electronic cigarettes to secure and maintain a license issued by the California
20 Department of Tax and Fee Administration (“CDTFA”). (Bus. & Prof. Code, §§ 22970-22991.)
21 California law also required CDTFA to promulgate regulations to impose an excise tax on
22 electronic cigarettes equivalent to that imposed on cigarettes. California voters’ purpose in doing
23 so was to discourage initiation and use of tobacco products, specifically including electronic
24 cigarettes, and to raise funds to pay for treatment and prevention of tobacco-related diseases and
25 for the enforcement of tobacco-related laws. (Healthcare Research and Prevention Tobacco Tax
26 Act, 2016 Cal. Legis. Serv. Prop. 56 (Proposition 56), §§ 1-2.)

27 32. Proposition 99, approved by the California voters in 1988, increased the tax on each
28 pack of cigarettes sold in the state by 25 cents. The annual Budget Act appropriates funds from

1 the Tobacco Surtax Fund for several purposes, including tobacco-use prevention education
2 (“TUPE”) in schools. The TUPE program provides funding for programs in grades six through
3 twelve through a competitive application process for tobacco-specific student instruction,
4 reinforcement activities, special events, and intervention and cessation programs for students.

5 33. Proposition 56, the California Healthcare, Research and Prevention Tobacco Tax Act
6 of 2016, also provides local public agencies with approximately \$30 million in funds annually to
7 promote a healthier California by reducing illegal sales and marketing of cigarettes and tobacco
8 products to underage individuals.

9 34. Proposition 56 found that tobacco use is the single most preventable cause of death
10 and disease in California; that it claims the lives of more than 40,000 people in California every
11 year; that treatment of tobacco-related diseases imposes a significant financial strain upon
12 California’s overburdened healthcare system; that tobacco use costs Californians more than
13 \$13.29 billion in healthcare expenses every year, of which \$3.5 billion is paid for by taxpayers;
14 and that the annual cost of lost productivity in California due to tobacco use is estimated to be
15 \$10.35 billion. (Healthcare Research and Prevention Tobacco Tax Act, 2016 Cal. Legis. Serv.
16 Prop. 56 (Proposition 56), § 1, subds. (a) & (b).)

17 35. At the local level, over 100 jurisdictions have local tobacco retailer licensing, and an
18 increasing number of cities and counties prohibit or regulate the retail sale of flavored electronic
19 cigarettes.

20 **V. ALLEGATIONS**

21 36. Despite now claiming that its mission is to help “adult smokers,” starting with its
22 launch, JLI has engaged in a systematic campaign to target underage California residents. JLI’s
23 campaign has been wildly successful, with millions of teens and young adults using their product.
24 While JLI’s profits soared, users became addicted and their health was harmed. Some users took
25 up cigarette smoking or became dual users of both cigarettes and electronic cigarettes. The short-
26 and long-term consequences of JLI’s actions for young people, for public health, and for public
27 resources, both at the state and local level, are devastating.
28

1 **A. FOUNDING OF JLI AND DEVELOPMENT OF JUUL**
2 **PRODUCTS**

3 37. JLI was founded by Adam Bowen and James Monsees. The two men met at Stanford
4 University as graduate students in the product design program in 2002. The goal of their 2005
5 thesis was to re-invent the cigarette. As Monsees put it, “[t]he cigarette is probably the most
6 successful consumer product of all time.”⁴ He and Bowen hoped their project would “take
7 tobacco back to being a luxury good and not so much a drug delivery device.”⁵

8 38. In order to accomplish this goal, Bowen and Monsees studied the Truth Tobacco
9 Industry Documents⁶ at the University of California San Francisco Library. This public
10 collection contains internal corporate documents produced by the tobacco industry during the
11 litigation between the state attorneys general and the tobacco industry that resulted in the tobacco
12 Master Settlement Agreement in 1998.⁷ Monsees explained, “We started looking at patent
13 literature. We are pretty fluent in ‘Patentese.’ And we were able to deduce what had happened
14 historically in the tobacco industry. In particular, after the ‘Master Settlement Agreement,’ the
15 big settlement where everyone was suing the tobacco companies and there was one master
16 lawsuit that was kind of rolled together. One of the results was that a lot of tobacco industry
17 documentation was mandated to become public.... You can still go to a website called
18 tobaccodocuments.org and you can read board minutes and other things.... It became a very
19 intriguing space for us to investigate because we had so much information that you wouldn’t
20 normally be able to get in most industries. And we were able to catch up, right, to a huge, huge
21 industry in no time. And then we started building prototypes.”⁸

22 39. Bowen and Monsees also familiarized themselves with the advertising techniques
23 used by Big Tobacco to sell cigarettes from these documents. Stanford University houses a

24 ⁴ <https://socialunderground.com/2015/01/pax-ploom-origins-future-james-monsees/>.

25 ⁵ <https://www.stanforddaily.com/2019/03/01/juul-founders-call-e-cigarette-prototype-a-luxury-good-in-2005-thesis-footage/>.

26 ⁶ Formerly called the Legacy Tobacco Documents Library.

27 ⁷ <https://www.industrydocuments.ucsf.edu/tobacco/>.

28 ⁸ <https://socialunderground.com/2015/01/pax-ploom-origins-future-james-monsees/>; see also <https://ideamensch.com/james-monsees/> (“We did a ton of research on why the industry had evolved to where it was at that time.”).

1 collection of tobacco advertising imagery as part of the Stanford Research into the Impact of
2 Tobacco Advertising (“SRITA”).⁹ When Monsees met Dr. Robert Jackler, principal investigator
3 of SRITA, in the summer of 2018, he thanked Dr. Jackler for the database and said the images
4 were very helpful in the design of JLI’s advertising.¹⁰

5 40. After graduating, Bowen and Monsees launched Ploom, a pod-based tobacco
6 vaporizer and then PAX, a vaporizer for loose-leaf tobacco and marijuana.

7 41. Bowen and Monsees then turned their focus to a form of nicotine called nicotine
8 salts. This approach originated from their research into Big Tobacco patents. As Monsees said in
9 2015, “The people who understood the science and were listed on previous patents from tobacco
10 companies aren’t at those companies anymore.... If you go to Altria’s R&D facility, it’s
11 empty.”¹¹ On information and belief, some of the former researchers for Big Tobacco advised
12 JLI on the creation of the JUUL electronic cigarette.¹² Working through their company, PAX
13 Labs, Inc., Monsees and Bowen introduced the JUUL electronic cigarette to the market in June
14 2015.

15 42. The JUUL device resembles a USB flash drive. It is small enough to fit in a closed
16 fist and has a sleek, tech-inspired design. Designed to be discreet, it is lightweight and fits easily
17 into a pocket. It is difficult to detect in a classroom. It produces a relatively small vapor cloud.
18 It is a stealth device.¹³

19 43. JUUL devices are battery operated. They work by heating up a cartridge (or “pod”)
20 containing liquid to create an aerosol, often called a vapor, that users inhale. The liquid contains
21 nicotine, flavorings, and many other chemicals.

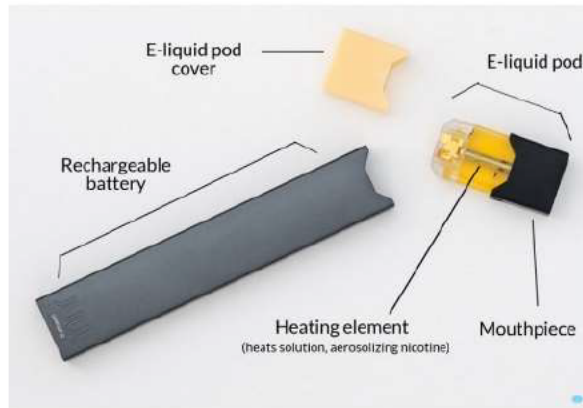
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25 ⁹ http://tobacco.stanford.edu/tobacco_main/index.php.

26 ¹⁰ July 24, 2019 Dr. Jackler congressional testimony before the House Committee on
Oversight and Reform, 1:32:25 - 1:33:18.

27 ¹¹ <https://www.wired.com/2015/04/pax-juul-ecig/>.

28 ¹² <https://www.reuters.com/investigates/special-report/juul-ecigarette/>.

¹³ Ramamurthi, et al., *JUUL and other stealth vaporisers: hiding the habit from parents and teachers* (2018) 28 Tobacco Control 610.



44. According to JLI, a single JUUL pod provides 200 puffs, which is approximately equal to a *pack* of cigarettes. A traditional combustible cigarette provides approximately 10 puffs. Thus, according to JLI, a JUUL user who consumes only one pod with 5% nicotine by weight inhales the same amount of nicotine as a cigarette smoker who lights up and smokes 20 cigarettes.¹⁴

45. JLI's use of nicotine salts in JUUL pods creates an experience analogous to smoking cigarettes because the nicotine salts serve to quickly deliver a nicotine peak to the user. However, unlike traditional cigarettes, the nicotine salts reduce irritation and make inhalation more palatable, especially to non-smokers. As JLI engineer Ari Atkins said to *Wired* in 2015, "In the tobacco plant, there are these organic acids that naturally occur. And they help stabilize the nicotine in such a way that makes it [...] I've got to choose the words carefully here: Appropriate for inhalation.' Steve Christensen, a design engineer, pipes in. 'Smoother,' he says. Atkins goes with that. 'Yeah, it's smoother.'"¹⁵

46. JUUL pods came in several different flavors including mango, fruit medley, creme brulee, cool mint, menthol, cool cucumber, Virginia tobacco, and classic tobacco.¹⁶

¹⁴ <https://www.nytimes.com/2019/07/31/opinion/juul-kids.html> (Former FDA Commissioner Dr. David A. Kessler explained, because "[e]ach JUUL cartridge with 5 percent nicotine delivers 200 puffs, compared to the 10 to 15 puffs of a traditional cigarette[,] [a]s a pediatrician, I am very concerned about the possibility of increased daily nicotine consumption among young people.").

¹⁵ <https://www.wired.com/2015/04/pax-juul-ecig/>.

¹⁶ JLI initially used alternate spelling for the names of its flavors, calling them miint, fruit, bruulé, and tabaac. In 2018, JLI renamed "cool mint" to "mint," "cool cucumber" to

1 47. JLI test-marketed a number of other flavors including peanut and jam, apple crumble,
2 apple cran, ginger peach tea, elderflower fizz, crisp pear, guava lychee, chamomile tea, thai iced
3 tea, lemon tea, mixed berry, chestnut croissant, mimosa, old fashioned, strawberry limoncello,
4 cinnamon snap, lemon poppyseed, and spicy watermelon.

5 48. Each pack sold by JLI contains either two or four pods.¹⁷

6 49. Up until November 2019, JLI offered starter kits. The kit came with the JUUL
7 electronic cigarette device containing a built-in battery, magnetic USB charger, and one pod each
8 of cool mint, fruit medley, creme brulee, and Virginia tobacco.

9 50. The battery life of a JUUL device may last about a day with moderate usage. The
10 device may be plugged into a laptop USB port for recharging.

11 51. In 2018, JUUL sales in the U.S. passed \$1 billion. In November 2018, JLI held
12 approximately 76.1% of the electronic cigarette retail market. It has become so popular that
13 “JUULing” has become a verb.¹⁸

14 **B. JLI’S MARKETING CAMPAIGN TARGETS UNDERAGE** 15 **YOUTH**

16 52. JLI now claims that its product is an alternative for current adult smokers.

17 53. However, when JUUL products were introduced in 2015, JLI’s focus was not current
18 adult smokers. As JLI engineer Atkins explained in March 2015, “‘We don’t think a lot about
19 addiction here because we’re not trying to design a cessation product at all,’ he said, later noting
20 ‘anything about health is not on our mind....’”¹⁹ Instead, JLI’s early marketing was patently
21 youth oriented. This is clear from its promotional events, marketing, and relaxed oversight of
22 sales to youth.

23 “cucumber,” “fruit medley” to “fruit,” and “creme brulee” to “creme.” In November 2019, JLI
24 announced it would stop the sale of cucumber, mango, fruit, and creme flavored pods in brick-
25 and-mortar stores, but continue to sell them online. In October 2019, JLI announced that it would
stop the sale of cucumber, mango, fruit, and creme flavored pods altogether. In November 2019,
JLI announced it would pull its mint flavored pods from the market.

26 ¹⁷ When JLI launched, pods were only available in packs of four. In 2018, JLI introduced
two-pod refill packs.

27 ¹⁸ Willett, et al. *Recognition, use and perceptions of JUUL among youth and young adults*
(2019) 28 Tobacco Control 115, 115-116.

28 ¹⁹ <https://www.theverge.com/2015/4/21/8458629/pax-labs-e-cigarette-juul>.

1 54. From the beginning, JLI and the Management Defendants sought to create an
2 electronic cigarette product that captured the “objective[] cool[ness]” of the cigarette.²⁰ As
3 Monsees explained, “smoking is also sexy. So, let’s say, uh, Marilyn Monroe and her cigarette
4 holder or James Dean who was cool as hell. Or just think about the presence and the intellect of
5 Albert Einstein with his pipe or the political aspirations of Winston Churchill that you can just tell
6 through his personality. Smoking exudes personality.”²¹

7 55. Bowen and Monsees built early prototypes to mimic the coolness of the cigarettes.
8 One early tester said of the JUUL device: “[t]here’s a cool factor to it, and that’s a big thing I
9 think for smoking for a lot of people, including myself.”²²

10 56. Monsees stated in a 2014 interview, “Our products are for people who want to enjoy
11 tobacco but don’t self-identify with — or don’t necessarily want to be associated with —
12 cigarette. We aim to recreate the ritual and elegance that smoking once exemplified. We want to
13 remove tobacco’s social stigma and public adversity while bringing personal tobacco use to a new
14 level of accessibility.”²³

15 57. JLI’s first marketing campaign was called “Vaporized.” This campaign, created by
16 the marketing agency Cult Collective, sought to emphasize the “coolness” of JUUL products as
17 the “reinvented” cigarette. Cult Collective surveyed electronic cigarette users to create brand
18 maps of competing electronic cigarette products. It found that JLI’s competitors, like MarkTen,
19 Vuse, and blu, were associated with words like “calm,” “relaxed,” “healthy,” and “quit.”

20 ²⁰ <https://www.wired.com/2015/04/pax-juul-ecig/> (“Plus, Monsees argues, what makes a
21 cigarette enticing isn’t the burning paper and nasty smell. It’s something more ineffable. ‘It’s just
22 objectively cool,’ says Ari Atkins, an R&D engineer at Pax. ‘How do you make somebody look
23 cooler? Give them a cigarette.’”).

24 ²¹ Monsees, *Smoking Deconstructed* (Nov. 1, 2013) TEDxBruussels, available at
25 <https://www.youtube.com/watch?v=gJU99RyjDTs>.

26 ²² <https://www.stanforddaily.com/2019/03/01/juul-founders-call-e-cigarette-prototype-a-luxury-good-in-2005-thesis-footage/>.

27 ²³ <https://ideamensch.com/james-monsees/>.



The Nest-Builder

- Blu customers value friendships, **bonding and a sense of belonging**.
- They see smoking Blu cigarettes as a lifestyle choice.
- The brand triggers feelings of **relaxation and calm**.
- Blu customers are especially drawn to **how much healthier and safer** it is for the smoker, their friends and families.



The Energy Czar

- MarkTen users desire rest, relaxation, nourishment, and exercise. They seek feelings of pleasure and satisfaction.
- They see MarkTen as a brand that resonates with **fun, vitality, and adventure**.
- They appreciate how cigarettes are convenient and allow them to smoke wherever they are.
- A higher number of MarkTen users relate the brand to smoking cessation aid.

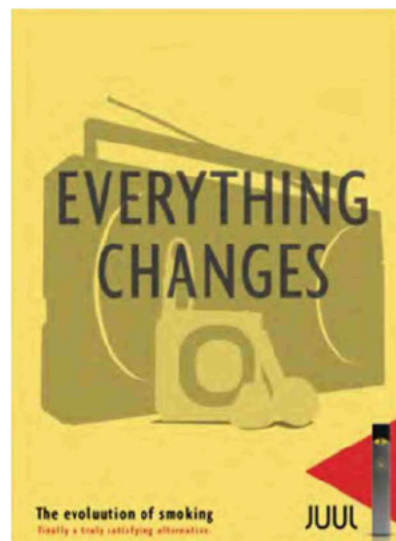


The Energy Czar

- VUSE users desire rest, relaxation, nourishment, and exercise. They seek feelings of pleasure and satisfaction.
- They **value socializing**, and the freedom of **being able to use the product while with a group**.
- They appreciate how VUSE lets them **enjoy nicotine in a clean way**, being free of side effects like lingering smoke smells and breathing problems.

58. In contrast, respondents associated JUUL products with a very different set of words, such as “sleek,” “new,” “cool,” “sexy.”





61. The marketing plan also advocated selling JUUL products in novel ways to reach a new, non-smoking demographic. For example, it proposed distributing JUUL products to Urban Outfitters,²⁴ “cool barber shops,” and apparel and footwear stores. Additionally, Cult Collective emphasized the importance of selling JUUL products direct to consumers online, saying JLI should “[r]emove the barriers for customers to purchase your product.” It criticized the other major electronic cigarette brands for not being available for sale online and for the clunky user interfaces of their websites. For example, Cult Collective pointed out that “[a] heavily secured

²⁴ Urban Outfitters’ target demographic is ages 18 to 28 years old. (http://www.annualreports.com/HostedData/AnnualReports/PDF/NASDAQ_URBN_2018.pdf).

1 gateway restricts visibility to Vuse’s website for all but American visitors. Even for Americans,
2 an intimidating registration form means most casual visitors will not go through the effort.”
3 Despite the fact that JLI’s competitors blu and Vuse did not sell directly to consumers online,
4 Cult Collective encouraged JLI to “[m]ake sure your product is easily accessible for customers”
5 through an online store, a suggestion that JLI adopted.

6 62. JLI and the Management Defendants followed Cult Collective’s advice in its ad
7 campaign called “Vaporized.” The campaign ads displayed youthful models, playfully posing in
8 ads that were “colorful, approachable, dynamic and fun.” As JLI wrote, “The Smoking Evolved /
9 VAPORIZED campaign features 10 New York trendsetters who embody the JUUL brand and
10 speak to millennial consumers seeking a stylish and simple new way to enjoy nicotine with the
11 latest vapor technology.” In describing the results of the Vaporized launch, Greg Damus of Cult
12 Collective discussed the demographics of early consumers. He wrote, “Introduced new audience
13 segments in ‘College Kids’ and ‘JUUL Homepage visitors,’” with “[h]ighest CTRs [click through
14 rates] are coming from ‘College Kids’ audience at 0.08%, with ‘Females 18-24’ and ‘Females 25-
15 34’ close behind at 0.07%.”

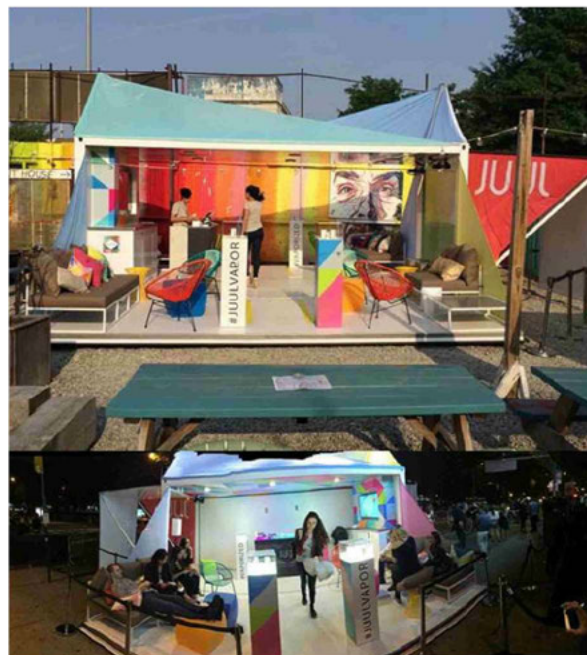


23 63. The color schema and original diamond-shaped cut-out of the JUUL pods and logo
24 emulated the packaging of Marlboro cigarettes. Right after the launch of JUUL, in June 2015,
25 Philip Morris USA Inc. sent JLI (then PAX Labs) a cease-and-desist letter alleging its diamond
26 cut-out infringed on the Marlboro “roof design mark.”²⁵ After JLI and Philip Morris reached a
27 settlement, JLI rolled out redesigned products with a now-familiar hexagonal cut-out shape.

28 ²⁵ *PAX Labs, Inc. v. Philip Morris USA Inc.*, N.D. Cal., 15-cv-3766.



64. JLI promoted its products through experiential marketing in which it offered free samples to consumers. As part of its “container tour,” JLI created pop-up lounges at festivals, concerts, and other events throughout California during which attendees were offered free samples of JUUL pods.



65. On information and belief, JLI held these sampling events at the following locations in California:

- June 18, 2015, Eclipse Prop Master Party, Los Angeles
- August 8, 2015, Saturdays at Create, Los Angeles
- August 13, 2015, Art Walk, Los Angeles
- August 15-16, 2015, Cinespia Movies All Night Slumber Party, Los Angeles
- August 23, 2015, Sundays at VIX, Los Angeles
- August 27-30, 2015, LA Food & Wine Festival, Los Angeles
- September 4-6, 2015, Nocturnal Wonderland, San Bernardino
- September 18-20, 2015, California Beer Festival, Ventura

We're taking over the left coast...

1 message

JUUL <hello@juulvapor.com>
Reply-To: JUUL <hello@juulvapor.com>
To:

Thu, Jul 30, 2015 at 4:00 PM

[View this email in your browser.](#)



Join Us in LA

JUUL is coming to the West Coast!
Come see us at one of these events and receive
a complimentary starter kit.

August 8

Saturdays @ Create - SBE Group

August 13

Art Walk Downtown LA

August 15-16

Cinespia

August 23

Sundays at VIX - SBE Group

August 27-30

LA Food & Wine Festival

66. As many as 15,000 people tried JUUL samples at a single event. Through its Container Tour, JLI hoped to “get JUUL into the hands of over 12,500 influencer[s] subsequently introducing JUUL to over 1.5M people.” JLI collected contact information from the guests who

1 sampled their products and sent them curated albums featuring pictures of the event along with a
2 promotional code for discounted product. However, JLI employees carefully curated the photos
3 because “many of the people photographed look significantly under 30.” The guests were then
4 encouraged to include @JUULvapor in their social media posts of photos of the events and tag
5 their posts with various JUUL-related hashtags, such as #JUUL and #LightsCameraVapor. Sarah
6 Richardson, JLI Marketing Director, wrote of these early promotional events, “[I] think folks may
7 also be concerned with the angle of 21st century marketing appealing to adolescents, but that’s a
8 risk we took....”

9 67. JLI also conducted sampling events in convenience stores. “Brand ambassadors”
10 offered consumers free samples of JUUL pods in locations throughout California, including in the
11 County of Los Angeles. JLI emphasized the importance of getting the convenience store
12 employees to sample the products, telling brand ambassadors to give them free JUUL starter kits.
13 JLI’s goal was to “[t]urn store clerks into JUUL ambassadors through trial, gifting and follow up
14 to encourage in-store advocacy from the people who are face to face with consumers day in and
15 day out.”

16 68. JLI also used its own employees as “brand ambassadors,” encouraging them to recruit
17 new users and to use JUUL products themselves. In June 2016, California amended its smoke-
18 free laws to prohibit use of electronic cigarettes in the workplace. (Labor Code, § 6404.5.)
19 Despite these prohibitions, vaping in the workplace was an engrained part of JLI’s culture.
20 Reporters conducting interviews at JLI’s San Francisco offices in 2015 observed: “Everyone . . .
21 is vaping. Puffs of white clouds rise every few seconds, from seemingly every desk.”²⁶ This
22 behavior continued as recently as August 2018, when the New York Times published a
23 photograph showing employees vaping at their computers.²⁷

24
25
26
27
28 ²⁶ <https://www.wired.com/2015/04/pax-juul-ecig/>.

²⁷ <https://www.nytimes.com/2018/08/27/science/juul-vaping-teen-marketing.html>.



69. JLI facilitated this behavior by selling JUUL products to its employees through its “Employee Purchase Program,” both in its original office at 660 Alabama Street, San Francisco and its current office at Pier 70, 560 20th Street, San Francisco.²⁸ On information and belief, JLI made these in person retail sales to its employees for at least three years, despite the fact that it did not hold a California tobacco retailer license until August 20, 2019.

70. In addition, JLI gave out samples of JUUL products outside of “hot spots, bars, restaurants, etc.” in major metropolitan areas. Brand ambassadors were instructed to “[i]dentify people who fit the JUUL demographic and who may want to try/receive JUUL (smokers, cool kids, fun people, etc.).” After trying JUUL products, guests were given free starter kits to keep.

71. JLI was aware that sampling was a crucial way to attract new customers because of the addictive power of JLI’s nicotine salt formulation. Vincent Latronica, former head of East Coast sales and distribution, recalled that the company’s sales force “emphasized the device’s unique addictive power by showing store owners charts depicting how the Juul device delivers nicotine to the bloodstream as efficiently as a traditional cigarette....”²⁹ A former JLI manager told Reuters that “[t]he company’s goal was to deliver instant satisfaction to skeptical users [....] Surveys at the time showed that more than half of cigarette smokers had tried e-cigarettes but less

²⁸ <https://www.newyorker.com/magazine/2018/05/14/the-promise-of-vaping-and-the-rise-of-juul> (describing visit to Pier 70 office: “Some [employees] are former smokers who have switched to Juuling—one of the office’s few pieces of visible Juul paraphernalia is a large locked cabinet with a stack of pods that employees can purchase at a discount.”).

²⁹ <https://www.reuters.com/investigates/special-report/juul-ecigarette/>.

1 than 10% became regular users. That’s why the first hit was so crucial ‘We knew there might
2 be a second or third draw, but not necessarily[.]’”³⁰

3 72. Following the “Vaporized” campaign, JLI attempted a “rebrand” in 2016. Internal
4 documents show that JLI recognized that “[t]he models that we used for the #Vaporized
5 campaign appeared to be too youthful for many consumers (and the media).” It further admitted,
6 “[t]he original color palette was too bright and colorful, which proved to be a turn-off for certain
7 demographics.” JLI’s new advertising invoked style and lifestyle, with messages associated with
8 pleasure, socialization, romance, flavors, economics, seasons, fashion and satisfaction. For their
9 “pleasure” advertisements, JLI used slogans such as “Enjoy a JUUL moment,” “Cozy up with
10 JUUL,” and “Ease into the weekend with JUUL.” For socialization and romance, JLI portrayed
11 images of couples mingling their exhaled vapor and represented “JUULing” as a social activity to
12 be shared among friends. JLI continuously emphasized the fruity flavors with slogans such as
13 “Have a sweet tooth, try brulee” (2016), “turns out a whole lot of you love mango” (April 2017),
14 and “Get into the tropical mood of summer with mango JUUL pods” (July 2018).

15 73. JLI conducted most of its marketing through social media, such as Instagram, Twitter,
16 and Facebook, despite the fact that JLI was aware the Instagram and Facebook “cater to younger
17 audiences.”³¹ JLI made minimal use of newspapers, magazines, billboards, radio, and television.
18 The single magazine that JLI did market in was VICE magazine, which claims to be the “largest
19 youth media company in the world.”³²

20 74. JLI utilized one show-stopping series of billboards in Times Square in New York
21 City. The billboards displayed images of attractive and young models smiling, joyously jumping,
22 and kissing, while enthusiastically “JUULing.” The photos for the Times Square billboard were
23 taken at an open photo shoot at JLI’s launch event for whomever “wanted to take a photo with
24 JUUL and show off their modeling skills (influencers were invited through casting agencies).
25 The PAX Labs marketing and creative teams then selected final photos based on aesthetic and
26

27 ³⁰ <https://www.reuters.com/investigates/special-report/juul-ecigarette/>.

28 ³¹ According to Pew Research Center, 71% of Americans age 18 to 24 use Instagram.
(<https://www.pewresearch.org/internet/2018/03/01/social-media-use-in-2018/>).

³² <http://nymag.com/intelligencer/2018/06/inside-vice-media-shane-smith.html>.

1 social influencer [sic] to appear on a billboard in Times Square....” The Times Square billboard
2 ran for a 28-day span, receiving 42 million impressions during that period.

3 75. JLI utilized social media “influencers” – social media users with sizeable user
4 followings – for paid promotion of JUUL products. In September 2017, Christina Zayas, a social
5 media influencer, was invited to participate in a campaign promoting JUUL products. Zayas
6 shared an email with CNN, which came from an influencer marketing firm called Lumanu that
7 was conducting a campaign for JLI. A representative asked her to try JLI’s “premium e-cigarette
8 and share [her] experience on [her] blog.” Zayas recalled that they “liked my edgy style and that
9 I appealed to the younger market.”³³

10 76. JLI used a hashtag marketing strategy to promote its products through various social
11 media platforms. By including generic hashtags as well as hashtags specifically about its
12 products, JLI was able to get its social media posts in front of a wide audience. As JLI
13 community manager Ojan Namvar explained, “[u]sing hashtags also helps. In June ..., we
14 increased our follower count by 35% from May. It was a 14% increase overall in followers. We
15 only posted 6 times and gained 580 followers. The only change was including hashtags in a first
16 comment... [A]s we start to post user-submitted content then it’s much more appropriate, and
17 beneficial, to extend our reach with hashtags.” This use of hashtags to promote content proved
18 wildly successful. For example, the number of JUUL-related tweets “exploded in 2017, with the
19 total reaching 366,786 and a monthly average of 30,565, [which was] 17 times the 2016
20 levels....[T]he growth trend in JUUL tweets noticeably tracks well the growth in JUUL retail
21 sales; the two data series were highly correlated....”³⁴ In addition to strategic use of hashtags,
22 Namvar recommended that JLI repost user-created social media content in order to “leverage
23 their [user] excitement for the brand by bringing the conversation onto our channels.”

24 77. A former senior manager at JLI said that he and others in the company were well
25 aware that its product could appeal to teenagers. He further stated that JLI quickly realized that

26
27 ³³ <https://www.cnn.com/2018/12/17/health/juul-social-media-influencers/index.html>.

28 ³⁴ Huang, et al. *Vaping versus JUULing: how the extraordinary growth and marketing of JUUL transformed the US retail e-cigarette market* (2019) 28 Tobacco Control 146, 148.

1 teenagers were, in fact, using its products, because they posted images of themselves vaping
2 JUUL products on social media.³⁵

3 78. At its inception, JLI and the Management Defendants chose not to employ age-gating
4 or age-restrictions to enter its website or to view its social media accounts. As a result, JLI's
5 social media marketing campaigns and website advertising were accessible to underage persons
6 in California.

7 79. In addition to social media marketing campaigns, JLI marketed via email. As
8 discussed more fully below, JLI sent marketing and advertising emails to persons that had failed
9 JLI's website age verification.

10 80. These early marketing techniques paid off. Millions of American youth started
11 "JUULing" and posted images and videos of themselves and others "JUULing" on their social
12 media sites. Others created JUUL memes and the marketing campaign became viral.

13 81. JLI's initial marketing emails did not contain any mention of nicotine content.³⁶ Nor
14 did it contain any warning about the addictive nature of nicotine. For example, a January 11,
15 2016 JLI marketing email discussed the experience of using a JUUL product while pointedly
16 refraining from mentioning nicotine: "...just holding it makes you feel awesome. And then you
17 take a drag of one of the JUUL's flavors—"miint," "bruule," "tabaac," or "fruut"—and you feel
18 even better."³⁷ At that time JLI was fully aware of the addictive nature of its product.

19 82. Over two years after the JUUL device launch, on or around October 6, 2017, JLI
20 began including a small warning about nicotine on its official Twitter posts.³⁸ The initial warning
21 stated: "Warning: This product contains nicotine. Nicotine is an addictive chemical."³⁹ On or

22
23 ³⁵ <https://www.nytimes.com/2018/08/27/science/juul-vaping-teen-marketing.html>.

24 ³⁶ E.g., http://tobacco.stanford.edu/tobacco_web/images/pod/juul/email/large/email_6.jpg
25 (August 6, 2015 marketing email); http://tobacco.stanford.edu/tobacco_web/images/pod/juul/email/large/email_18.jpg
26 (November 25, 2015 marketing email); Jackler, et al., JUUL Advertising Over its First Three Years on the Market (January 31, 2019) at p. 25, available at
27 http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf (review of
28 171 JLI promotional emails found no mention of nicotine content between June 2015 and April 7,
2016).

³⁷ http://tobacco.stanford.edu/tobacco_web/images/pod/juul/email/large/email_30.jpg.

³⁸ Jackler, *supra*, p. 25.

³⁹ *Id.*

1 around June 2018 JLI changed the warning to “WARNING: Contains nicotine, which can be
2 poisonous. Avoid contact with skin and eyes. Do not drink. Keep out of reach of children and
3 pets. In case of accidental contact, seek medical help.”⁴⁰ This warning did not inform users that
4 nicotine is addictive.

5 **C. JLI EXPOSED CONSUMERS TO NICOTINE, A**
6 **CHEMICAL KNOWN TO CAUSE DEVELOPMENTAL**
7 **HARM, AFTER REMOVING THE JUUL PODS FROM**
8 **PRODUCT PACKAGING THAT CONTAINED THE**
9 **MANDATORY HEALTH WARNING**

8 83. A number of harmful consequences result from exposure to nicotine. Exposure to
9 nicotine in adolescence impairs memory and cognitive performance and may induce long-lasting
10 neurochemical changes, permanently altering the physical structure and gene expression of the
11 brain and lowering adult impulse control and attentional performance.⁴¹

12 84. Nicotine exposure also increases health risks for pregnant women, and research
13 shows adverse effects on a fetus’s lungs, heart, and central nervous system.⁴² For this reason, on
14 April 1, 1990, nicotine was placed on the Governor’s list of chemicals known to the State of
15 California to cause birth defects or other reproductive harm (“Proposition 65 List of Chemicals”).
16 (Cal. Code Regs., tit. 27, § 27001, subd. (c).)

17 85. As a result of being placed on the Proposition 65 List of Chemicals, beginning on
18 April 1, 1991, companies with 10 or more employees are required to give a “clear and reasonable
19 warning” before “knowingly and intentionally” exposing an individual to nicotine. (Health &
20 Saf. Code, § 25249.6 (“Proposition 65”).)

21 86. On information and belief, JLI placed a Proposition 65 nicotine warning on JUUL
22 product packaging for all times relevant to this first amended Complaint. However, for at least
23 four months in 2015, JLI exposed thousands of consumers in California to nicotine-containing

24 _____
25 ⁴⁰ *Id.*

26 ⁴¹ Slotkin, *Nicotine and the Adolescent Brain; Insights from an Animal Model* (2002) 24
27 *Neurotoxicology and Teratology* 369, 369-84; Counotte, et al., *Long-Lasting Cognitive deficits*
28 *Resulting from Adolescent Nicotine Exposure in Rats* (2009) 34 *Neuropsychopharmacology* 299,
299-306; Jacobsen, et al., *Effects of Smoking and Smoking Abstinence on Cognition in Adolescent*
Tobacco Smokers (2005) 57 *Biological Psychiatry*, 56, 56-66.

⁴² U.S. Department of Health and Human Services, *The Health Consequences of*
Smoking: 50 Years of Progress. A Report of the Surgeon General (2014).

1 JUUL pods after removing the pods from the packaging that carried the required warning. In
2 doing so, JLI failed to provide consumers with the mandatory Proposition 65 warning before
3 inducing them to sample the product in hopes that the consumers would become regular users of
4 the addictive product.

5 87. During the period on or about August 7, 2015, to at least December 19, 2015, JLI
6 sponsored hundreds of product sampling events at stores throughout California, including stores
7 in San Diego, Los Angeles, Santa Barbara, the Inland Empire, Sacramento, San Jose, and San
8 Francisco.

9 88. Brand Ambassadors representing the company, wearing JUUL tee-shirts and carrying
10 a sampling bag marked “JUUL,” stood near store entrances and invited passersby to sample a
11 JUUL product. Before doing so, however, the Brand Ambassadors were instructed to remove the
12 pods from their packaging – which contained a Proposition 65 warning – and to put the
13 unpackaged pods into their sampling bag.

14 89. Brand Ambassadors were instructed to look for trendy shoppers “who look like they
15 might be into technology, fashion, music or art,” and after stopping them and completing age
16 verification, to offer a sample from a JUUL product. Brand Ambassadors would connect the pod
17 to a device and provide instructions on how to use it. If the consumer liked the experience, the
18 Brand Ambassadors were instructed to place the used JUUL pod in an envelope marked “JUUL”
19 and give it to the consumer to keep, along with a coupon for the purchase of a JUUL starter kit.

20 90. On information and belief, JLI’s Brand Ambassadors intercepted at least 6,800
21 consumers during more than 250 events at California locations between on or about August 7,
22 2015 and December 19, 2015, including in the County of Los Angeles. They distributed samples
23 of JUUL pods to at least 1,563 individuals at these events.

24 91. At no point in this process did the consumer receive a clear and reasonable warning
25 that nicotine is known to the State of California to cause developmental toxicity, even though JLI
26 knew the products contained nicotine and intentionally exposed persons to it, in violation of
27 Proposition 65.
28

**D. JLI QUICKLY ROSE TO THE TOP OF THE MARKET
AS UNDERAGE USE OF ELECTRONIC CIGARETTES
SKYROCKETED**

92. Between 2011 and 2017, current use of electronic cigarettes increased among both high school students (1.5% to 11.7%) and middle school students (0.6% to 3.3%). In 2017, more than 2 million middle and high school students were current users of e-cigarettes.⁴³

93. Sales of JUUL products grew more than seven-fold from 2016 to 2017, and by December 2017, JLI held the largest share of the U.S. e-cigarette market. During 2016-2017, JUUL product sales increased 641%—from 2.2 million devices sold in 2016 to 16.2 million devices sold in 2017.⁴⁴

94. At the same time, the growth in youth use of electronic cigarettes continued. The increase in adolescent vaping of nicotine in 2017-18 was the largest increase for any substance ever tracked by the national Monitoring the Future survey over the past 44 years. According to that survey, in 2019, the prevalence of use during the previous 30 days was more than one in four students in the 12th grade, more than one in five in the 10th grade, and more than one in eleven in the 8th grade.⁴⁵

95. A February 2019 study conducted by the CDC revealed that, while cigarette smoking had steadily declined over the past two decades, the introduction of new electronic cigarette devices shifted the types of tobacco products used by youth. Since JUUL entered the market, electronic cigarettes have been the most commonly used tobacco product among U.S. middle and high school students.⁴⁶

⁴³ Wang, et al., *Tobacco Product Use Among Middle and High School Students — United States, 2011–2017* (2018) 67 Morbidity and Mortality Weekly Report 629–633, available at <https://www.cdc.gov/mmwr/volumes/67/wr/mm6722a3.htm>; see also Cullen, et al., *Flavored Tobacco Product Use Among Middle and High School Students—United States, 2014-2018* (Oct. 4, 2019) 68 Morbidity and Mortality Weekly Report 839-844, available at <https://www.cdc.gov/mmwr/volumes/68/wr/pdfs/mm6839a2-H.pdf>.

⁴⁴ <https://www.bloomberg.com/news/articles/2018-11-05/juul-is-so-hot-it-s-set-the-vaping-debate-on-fire-quicktake>.

⁴⁵ Miech, et al., *Trends in Adolescent Vaping, 2017-2019* (Oct. 10, 2019) 381 New Eng. J. Med. 1490, available at <https://www.nejm.org/doi/full/10.1056/NEJMc1910739>.

⁴⁶ Gentzke, et al., *Vital Signs: Tobacco Product Use Among Middle and High School Students — United States, 2011–2018* (2019). 68 Morbidity and Mortality Weekly Report 157–164, available at <http://dx.doi.org/10.15585/mmwr.mm6806e1>.

1 96. The February 2019 CDC study also showed that, in 2018, current use of tobacco
2 products was reported by 27.1% of high school students (4.04 million) and 7.2% of middle school
3 students (840,000), and electronic cigarettes were the most commonly used tobacco product
4 among high school students (3.05 million) and middle school students (570,000). The study
5 ominously concluded that a considerable increase in electronic cigarette use among U.S. youth,
6 coupled with no change in use of other tobacco products during 2017-2018, negated recent
7 progress in reducing overall tobacco product use among youth.

8 97. According to the CDC's 2019 National Youth Tobacco Survey, teen use increased
9 again in 2019, with 27.5% of high school students and 10.5% of eighth graders reporting current
10 use of electronic cigarettes.⁴⁷ Among current electronic cigarette users, an estimated 34.2% of
11 high school students and 18.0% of middle school students reported electronic cigarette use on
12 more than 20 out of the past 30 days, and an estimated 63.6% of high school students and 65.4%
13 of middle school students reported exclusive use of electronic cigarettes. And, for current
14 electronic cigarette users, an estimated 59.1% of high school students and 54.1% of middle school
15 students chose JUUL as their usual electronic cigarette brand in the past 30 days. The JUUL
16 flavor of choice for 10th and 12th graders in 2019 was mint, preferred by 43.5% and 47%
17 respectively.⁴⁸

18 98. JLI is the leading electronic cigarette company in the country. As of October 5, 2019,
19 it held approximately 64.4% of the electronic cigarette retail market.⁴⁹

20 **E. ALTRIA—A BIG TOBACCO GIANT—INVESTED IN JLI**

21 99. Although JLI originally marketed itself as the enemy of Big Tobacco, it set aside that
22 position in December 2018 when it joined with Altria, the parent company of Philip Morris USA.
23 Philip Morris is one of the world's largest cigarette manufacturers and the maker of Marlboro, the
24 most popular cigarette brand in the United States.

25 100. Altria took a 35% stake in JLI, investing \$12.8 billion in December 2018.

26 ⁴⁷ Cullen, et al, *e-Cigarette Use Among Youth in the United States, 2019* (Nov. 5, 2019)
27 JAMA.

28 ⁴⁸ Leventhal, et al., *Flavors of e-Cigarettes Used by Youths in the United States* (Nov. 5,
2019) JAMA.

⁴⁹ According to Nielsen data for the four-week period.

101. As part of the deal, JLI received top-shelf space so JUUL pods may be displayed alongside Philip Morris' leading cigarette brands on the "power wall" behind the cash registers in many retailers. Altria also agreed to assist JLI with distribution and logistics. Additionally, Altria paid a special \$2 billion dividend to JLI and JLI promptly announced it would share the bonus with its 1,500 workers, averaging \$1.3 million each.

102. The Altria investment happened as JLI began facing federal regulatory pressures. The marriage of JLI to the tobacco giant ensured that Altria could bring its lobbying, regulatory and legal expertise to help JLI face increased regulatory and financial pressure and scrutiny.

103. The President of the Campaign for Tobacco-Free Kids, Matt Myers, called the deal a "truly alarming development for public health."⁵⁰ Mr. Myers noted that "JUUL's growth has been powered by its success in addicting kids, and the company's owners have just become billionaires as a result."⁵¹ Additionally, evidence now suggests that young people who use electronic cigarettes are more likely to try cigarettes.⁵²

104. Since then, Altria has consolidated its position by the replacement of JLI's Chief Executive Officer Kevin Burns with an Altria senior executive, K.C. Crosthwaite.

F. PUBLIC OUTCRY AND FDA ENFORCEMENT EFFORTS

105. In April 2018, the FDA sent a letter to JLI requesting documents relating to the marketing of its products.⁵³ The letter explained that the agency was requesting documents due to the growing concern about the popularity of JUUL products among youth. In the same month, the FDA announced it was conducting an investigation of underage sales of JUUL products.⁵⁴

106. In September 2018, then-FDA Commissioner Scott Gottlieb called teen vaping an "epidemic" and called on JLI to submit plans detailing how it would combat youth use.⁵⁵

⁵⁰ https://www.tobaccofreekids.org/press-releases/2018_12_20_altria_juul.

⁵¹ *Id.*

⁵² Miech, et al. *E-cigarette use as a predictor of cigarette smoking: results from a 1-year follow-up of a national sample of 12th grade students* (2017) 26 Tobacco Control e106, available at <https://tobaccocontrol.bmj.com/content/26/e2/e106>.

⁵³ <https://www.fda.gov/media/112339/download>.

⁵⁴ <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-enforcement-actions-and-youth-tobacco-prevention>.

⁵⁵ <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-steps-address-epidemic-youth-e-cigarette-use>.

107. In the same month it was reported that the Federal Trade Commission opened an investigation into whether JLI used deceptive marketing techniques to appeal to minors.⁵⁶

108. Following this string of bad publicity, JLI announced plans to pull its flavored pods from brick and mortar retail stores except for tobacco, mint, and menthol. It deleted certain social media and sought to enforce stricter age verification for online sales. Later, in April 2019, JLI announced the launch of a Track & Trace pilot program that purportedly allows JLI to track JUUL devices by the serial number back to the distributor or retailer.⁵⁷ JLI created an online portal through which it encouraged parents, teachers and law enforcement officials to report devices confiscated from youth by serial number.⁵⁸

109. In April 2019, the FDA launched a new probe into vaping after receiving reports of seizures and other acute illnesses following use of electronic cigarettes, including among youth and young adults.⁵⁹ As of November 13, 2019, the CDC reported 2,172 cases of electronic cigarette, or vaping, product use associated lung injury nationwide, including 42 deaths.⁶⁰ To date, four of these deaths have occurred in California. While a majority of the patients have reported using THC-containing products, 64% reported using nicotine-containing products and 11% reported exclusive use of nicotine-containing products.

110. On September 9, 2019, the FDA determined that JLI adulterated its products by selling or distributing them as modified risk tobacco products without an order from the FDA permitting such sale or distribution. The FDA stated that JLI has “marketed its . . . products as modified risk tobacco products because JUUL’s labeling, advertising, and/or other actions directed to consumers . . . represent, or would be reasonably expected to result in consumers believing, that the products present a lower risk of tobacco-related disease or are less harmful

⁵⁶ <https://www.ftc.gov/news-events/press-releases/2019/10/ftc-study-e-cigarette-manufacturers-sales-advertising-promotional>; Maloney, *JUUL’s Marketing Practices Under Investigation by FTC*, Wall Street Journal, (Aug. 29, 2019), available at <https://www.wsj.com/articles/juuls-marketing-practices-under-investigation-by-ftc-11567096073>.

⁵⁷ <https://techcrunch.com/2019/04/12/juul-launches-a-pilot-program-that-tracks-how-juul-devices-get-in-the-hands-of-minors/>.

⁵⁸ <https://www.juul.com/report>.

⁵⁹ <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-and-principal-deputy-commissioner-amy-abernethy-md-phd>.

⁶⁰ https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html#latest-outbreak-information (as of Nov. 13, 2019).

1 than one or more other commercially marketed tobacco products; contain a reduced level of a
2 substance or present a reduced exposure to a substance; and/or do not contain or are free of a
3 substance or substances.” The FDA referenced instances where JLI representatives told students
4 that JUUL products were “totally safe,” “much safer than cigarettes,” and that the “FDA was
5 about to come out and say it [JUUL] was 99% safer than cigarettes.”

6 111. A recent study published in the medical journal JAMA Network Open concluded that
7 young people who first try a flavored tobacco product are at a higher risk of using tobacco later
8 on.⁶¹ The study highlighted that “flavors in tobacco products puts users at risk for subsequent
9 tobacco use.” The researchers noted that young people, ages 12 to 17, and 18 to 24 were more
10 likely than older adults to try flavored products. In fact, the *younger* the person, the more likely
11 they were to use flavored tobacco products and then progress to non-flavored tobacco products
12 later.

13 112. The American Academy of Pediatrics has such significant concerns about JUUL
14 products and their effect on young people that at a recent hearing held by a U.S. House of
15 Representatives oversight subcommittee, the Academy called for JUUL products to be removed
16 from the market immediately.⁶²

17 **G. USE OF JUUL PRODUCTS LEADS TO ADVERSE** 18 **HEALTH CONSEQUENCES**

19 113. According to JLI, a standard JUUL pod contains a concentration of nicotine equal to
20 a pack of cigarettes.⁶³ Nicotine is highly addictive.

21 114. Early nicotine exposure and addiction can harm brain development and alter nerve
22 cell functioning, especially during early childhood and adolescent stages of development.
23 Nicotine negatively affects brain development and leads to nicotine addiction among teens and

24 ⁶¹ Villanti, et al., *Association of Flavored Tobacco Use with Tobacco Initiation and*
25 *Subsequent Use Among US Youth and Adults, 2013-2015* (Oct. 23, 2019) 2 JAMA Network Open
e1913804, available at <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2753396>.

26 ⁶² Miller, *AAP Works to Protect Children from E-Cigarettes, Calls for JUUL to be*
27 *Removed from Market*, AAP News (Aug. 21, 2019), available at <https://www.aappublications.org/news/2019/08/21/washingtonjuul082119>.

28 ⁶³ In the United States, JUUL pods were originally only offered with 5% nicotine by weight. In 2018, JLI introduced 3% formulation for certain flavors.

1 pre-teens. Evidence shows that nicotine affects neurological development in adolescents and that
2 exposure to nicotine during adolescence can produce an increased vulnerability to nicotine
3 addiction. The California Public Health Department notes that “[a]dolescents are especially
4 sensitive to the effects of nicotine and are likely to underestimate its addictiveness....adolescent
5 smokers report some symptoms of dependence even at low levels of cigarette consumption.”⁶⁴
6 According to the CDC, without qualification, “[t]he use of e-cigarettes is unsafe for kids, teens,
7 and young adults. Indeed, as the California Department of Public Health State Health Officer’s
8 Report on electronic cigarettes stated, “[e]xposure to nicotine during adolescence can harm brain
9 development and predispose youth to future tobacco use.”⁶⁵

10 115. Most young JUUL users, however, do not realize that the JUUL pods contain
11 nicotine. They think they vape only flavoring, not nicotine.⁶⁶ A November 2017 study conducted
12 by the Schroeder Institute at the Truth Initiative found that only 37% of 15 to 24 year-olds who
13 had used a JUUL in the past 30 days knew that JUUL pods always contain nicotine.⁶⁷ Testing of
14 JUUL pods and JUUL-compatible pods confiscated from students at California public schools
15 found that all pods tested contained nicotine, primarily at concentrations ranging between 40 and
16 50 mg/mL.

17 116. In addition to harm from nicotine, studies have found that overheating an e-liquid can
18 cause “thermal degradation,” a process whereby the ingredients in the e-liquid start breaking
19 down. In some cases, this degradation can create toxic chemicals like formaldehyde, a cancer-
20 causing agent. According to Thomas Eissenberg, co-director of the Center for the Study of
21 Tobacco Products at Virginia Commonwealth University in Richmond, overheated or burnt e-
22 liquid can taste bitter, but consumers are not necessarily able to detect thermal degradation.⁶⁸

24 ⁶⁴Chapman, State Health Officer’s Report on E-Cigarettes (January 2015) p. 5, available
25 at [https://www.cdph.ca.gov/Programs/CCDCPHP/DCDIC/CTCB/CDPH%20Document%20Library/
26 Policy/ElectronicSmokingDevices/StateHealthEcigReport.pdf](https://www.cdph.ca.gov/Programs/CCDCPHP/DCDIC/CTCB/CDPH%20Document%20Library/Policy/ElectronicSmokingDevices/StateHealthEcigReport.pdf).

⁶⁵ Chapman, *supra*, at p. 2.

⁶⁶ <http://www.monitoringthefuture.org/pubs/monographs/mtf-overview2016.pdf>.

27 ⁶⁷ Willett, et al. *Recognition, use and perceptions of JUUL among youth and young adults*
28 (2019) 28 Tobacco Control 115, 116.

⁶⁸ <https://khn.org/news/as-vaping-devices-evolve-new-potential-hazards-scrutinized/>.

1 117. One of JLI's initial marketing points was that its smart temperature control
2 technology prevented the creation of these compounds. As *The Verge* wrote in a March 2015
3 early promotional article, "The other differentiator that makes Juul smarter is temperature control,
4 using what they called a precision resistance measurement circuit to figure out the ideal
5 temperature for vaporization. 'When you're able to control the temperature really well,' said
6 Monsees, the flavor doesn't change and you don't create degradation compounds that you don't
7 want to inhale."⁶⁹

8 118. Specifically, JLI and the Management Defendants claimed that its temperature-
9 controlling technology prevented the formation of formaldehyde. As an April 2015 *Wired* article
10 explained, "Long-term, though, the Juul's careful way of vaporizing that nicotine is its real secret
11 sauce. The temperature of the heating coil is controlled to give you the largest possible cloud of
12 vapor, but none of the dangerous chemicals or compounds, like formaldehyde, that come with
13 overheating the coil or the juice. This is Pax's product, maybe even more than the Juul itself.
14 'The underlying technology, the vaporization technology, is so valuable and can be really
15 disruptive in a lot of different markets,' Monsees says."⁷⁰ JLI was repeating these claims about
16 the lack of chemical degradation as late as February 2018. KOMO News asked JLI, "Medical
17 research found that e-cigarette vapor can contain cancer-causing formaldehyde. Can you assure
18 customers that JUUL pods and vapor don't produce formaldehyde chemical compounds?"⁷¹ In
19 response, JLI stated, "JUUL uses a temperature regulation system to heat nicotine-based liquid to
20 a level that is designed to avoid burning and minimize the degradation reactions that occur during
21 combustion. JUUL intentionally does not have any user-modifiable settings in order to ensure
22 consistent output, including ensuring that the liquid is not burned."

23 119. Despite these public claims, JLI and Management Defendants were aware that JLI's
24 product produced formaldehyde. In a series of tests JLI ran on October 2014, it found that there
25 were measurable amounts of formaldehyde produced from vaporizing the Beta JUUL liquid.

26 ⁶⁹ <https://www.theverge.com/2015/4/21/8458629/pax-labs-e-cigarette-juul>.

27 ⁷⁰ <https://www.wired.com/2015/04/pax-juul-ecig/>.

28 ⁷¹ <https://komonews.com/news/nation-world/juuling-the-dangerous-trend-gaining-steam-among-teens>.

1 When Adam Bowen was informed of these results, his response was, “[l]et’s take this offline. Ari
2 I’ll call you to discuss.”

3 120. A later round of testing in February 2016 of the vapor emitted by aerosolizing JUUL
4 pods showed “that there was quite some Acetone [sic] generated during puffing for all samples,
5 and some Formaldehyde [sic] produced independent of the initial level in the liquid.” The results
6 found 67.10 ug/g acetone and 22.23 ug/g formaldehyde in vaporized “miint” e-liquid, 25.53 ug/g
7 acetone and 15.46 ug/g formaldehyde in vaporized “fruut” e-liquid, 64.90 ug/g acetone and 14.21
8 ug/g formaldehyde in vaporized “tabaac” e-liquid, and 26.91 ug/g acetone and 12.96 ug/g
9 formaldehyde in vaporized “bruulé” e-liquid. Both the mint and fruit flavored pods had “pretty
10 high amount of formaldehyde to start with,” with measurements of 13.39 ug/g and 13.70 ug/g
11 respectively of formaldehyde in the unvaporized e-liquid.

12 121. Despite these results, Gal Cohen, JLI head of Scientific Affairs, wrote to Ran Shitrit,
13 JLI Israel Finance Director, in July 2018, “It is important to note that JUUL’s temperature
14 regulation is intended to minimize the generation of compounds such as formaldehyde and
15 acetaldehyde. These were not found (below level of quantification or detection in the vapor of
16 JUUL).”

17 **H. CALIFORNIA VOTERS, LEGISLATORS AND PUBLIC** 18 **AGENCIES TAKE ACTION TO PREVENT UNDERAGE** **YOUTH USE OF ELECTRONIC CIGARETTES**

19 122. The California legislature and numerous California state agencies, cities, counties,
20 school districts, schools, police departments, sheriff’s departments, and local public health
21 departments, including the County of Los Angeles’ Public Health Department, have taken actions
22 and spent funds to reduce access to and use of electronic cigarettes by underage youth.

23 123. The California School Boards Association recently developed model policies
24 regarding electronic cigarettes. In doing so, they noted that “[o]ne brand, JUUL Labs, presents a
25 major challenge for teachers and administrators because one of its most popular products
26 resembles a USB stick. The pods are also available in flavors attractive to students, including
27 mango, mint and crème brulee.”⁷²

28 ⁷² <http://blog.csba.org/e-cigarettes/>.

1 124. Public schools across California, including in the County of Los Angeles, have
2 established and have had to fund programs to educate teachers, staff, nurses, students, parents,
3 and school resource officers about electronic cigarettes; and have installed vapor detectors in
4 school bathrooms; hired additional school resource officers; suspended students and mandated
5 attendance at after-school programs for students found using or in possession of electronic
6 cigarettes on school premises; provided intervention and cessation services for students who use
7 electronic cigarettes; and taken other steps to discourage and prevent use of electronic cigarettes
8 by students.

9 125. Local public education agencies in California generate annual Local Control and
10 Accountability Plans (LCAPs) to set goals, plan actions, and leverage resources to meet goals and
11 improve student outcomes. LCAPs in many school districts describe problems arising from use
12 and possession of electronic cigarettes, including but not limited to the San Lorenzo Valley
13 Unified School District LCAP that notes both parent and teacher feedback that student vaping is
14 an area that requires improvement.⁷³

15 126. On September 16, 2019, the California Governor signed an executive order to
16 confront the growing youth epidemic and health risks linked to vaping. The executive order
17 directed CDTFA to develop recommendations to remove illegal electronic cigarettes from stores
18 and to include nicotine content in the calculation of the existing tax on electronic cigarettes. It
19 also instructed the Department of Public Health (CDPH) to launch a \$20 million statewide public
20 awareness campaign to educate youth, young adults and parents about the health risks of vaping
21 nicotine and cannabis products. “We must take immediate action to meet the urgency behind this
22 public health crisis and youth epidemic,” said Governor Newsom.⁷⁴

23 **I. EFFECTS OF STUDENT USE OF ELECTRONIC** 24 **CIGARETTES ON PUBLIC SCHOOLS**

26 ⁷³ LCFF Budget Overview for Parents, pp. 41-42 (available at
27 <https://4.files.edl.io/1afe/06/20/19/143011-b5e1572f-9401-4958-b5db-8e0a55284ae2.pdf>).

28 ⁷⁴ Governor’s Exec. Order No. N-18-19 (Sept. 16, 2019)
<https://www.gov.ca.gov/2019/09/16/governor-gavin-newsom-signs-executive-order-to-confront-youth-vaping-epidemic/>.

1 127. Despite efforts by the legislature, state agencies and public schools, use of electronic
2 cigarettes by students and the adverse effects of such use, have increased.

3 128. Schools, and state and local agencies, including the Los Angeles County Department
4 of Public Health and Los Angeles County Office of Education, have expended large sums of
5 money and substantial amounts of time on actions and programs relating to electronic cigarettes
6 that, had it not been for the dramatic increase in use of electronic cigarettes by youth, could have
7 been expended on reducing access to and use of cigarettes or on other purposes.

8 129. The adverse effects of electronic cigarette use and possession on school campuses are
9 increasing.⁷⁵ Multiple news stories report JUUL product use in California schools and the burden
10 that places them.⁷⁶ For example, at Northgate High School in Walnut Creek, 40 out of 53
11 suspensions in 2018 were for vaping devices.⁷⁷

12 130. Identification, confiscation, storage and disposal of electronic cigarettes such as
13 JUUL products places a substantial burden on public schools in California, including in the
14 County of Los Angeles.

15 131. Implementing measures to deter use of electronic cigarettes such JUUL products is a
16 financial and resource burden on public schools in California, including in the County of Los
17 Angeles. For instance, Redwood City School District approved spending \$22,515 to install vapor
18

19 ⁷⁵ [https://www.washingtonpost.com/local/education/school-systems-sue-juul-saying-e-](https://www.washingtonpost.com/local/education/school-systems-sue-juul-saying-e-cigarette-firm-spurred-vaping-epidemic-in-students/2019/10/08/00aacb08-e9fc-11e9-9c6d-436a0df4f31d_story.html)
20 [cigarette-firm-spurred-vaping-epidemic-in-students/2019/10/08/00aacb08-e9fc-11e9-9c6d-](https://www.washingtonpost.com/local/education/school-systems-sue-juul-saying-e-cigarette-firm-spurred-vaping-epidemic-in-students/2019/10/08/00aacb08-e9fc-11e9-9c6d-436a0df4f31d_story.html)
21 [436a0df4f31d_story.html](https://www.washingtonpost.com/local/education/school-systems-sue-juul-saying-e-cigarette-firm-spurred-vaping-epidemic-in-students/2019/10/08/00aacb08-e9fc-11e9-9c6d-436a0df4f31d_story.html) (Washington Post report on school districts filing suit against JLI);
22 <https://www.edweek.org/ew/articles/2019/08/28/the-student-vaping-crisis-how-schools-are.html>
23 (Education Week report on e-cigarettes at schools).

24 ⁷⁶ [https://www.sfchronicle.com/bayarea/article/As-Juul-vaping-surges-among-teens-](https://www.sfchronicle.com/bayarea/article/As-Juul-vaping-surges-among-teens-health-12946713.php)
25 [health-12946713.php](https://www.sfchronicle.com/bayarea/article/As-Juul-vaping-surges-among-teens-health-12946713.php) (Bay Area); [http://abc7news.com/health/students-say-juul-vaporizer-easy-](http://abc7news.com/health/students-say-juul-vaporizer-easy-to-use-at-school-/3192043/)
26 [to-use-at-school-/3192043/](http://abc7news.com/health/students-say-juul-vaporizer-easy-to-use-at-school-/3192043/) (San Francisco); [http://sanfrancisco.cbslocal.com/2018/05/13/vaping-](http://sanfrancisco.cbslocal.com/2018/05/13/vaping-juuling-students/)
27 [juuling-students/](http://sanfrancisco.cbslocal.com/2018/05/13/vaping-juuling-students/) (Marin County); [http://www.ksbw.com/article/juul-e-cigarette-craze-concerns-](http://www.ksbw.com/article/juul-e-cigarette-craze-concerns-monterey-county-leaders/20057979)
28 [monterey-county-leaders/20057979](http://www.ksbw.com/article/juul-e-cigarette-craze-concerns-monterey-county-leaders/20057979) (Monterey County); [https://www.eastbayexpress.com/](https://www.eastbayexpress.com/oakland/teens-think-its-cool-to-juul/Content?oid=15021748)
[oakland/teens-think-its-cool-to-juul/Content?oid=15021748](https://www.eastbayexpress.com/oakland/teens-think-its-cool-to-juul/Content?oid=15021748) (Bay Area); [http://www.ktvu.com/](http://www.ktvu.com/news/as-juuling-craze-takes-off-many-worry-about-health-effects-and-addiction)
[news/as-juuling-craze-takes-off-many-worry-about-health-effects-and-addiction](http://www.ktvu.com/news/as-juuling-craze-takes-off-many-worry-about-health-effects-and-addiction) (Bay Area);
<https://apnews.com/301f89091f4944fcb1f95f5ab6723a13> (Conejo Valley Unified School District
and other schools); [http://www.berkeleyhighjacket.com/juuling-popularizes-e-cigarette-use-at-](http://www.berkeleyhighjacket.com/juuling-popularizes-e-cigarette-use-at-bhs/)
[bhs/](http://www.berkeleyhighjacket.com/juuling-popularizes-e-cigarette-use-at-bhs/) (Berkeley High School); [https://berkeleyhighjacket.com/opinion/teen-vape-deaths-leave-bhs-](https://berkeleyhighjacket.com/opinion/teen-vape-deaths-leave-bhs-addicts-seeking-support/)
[addicts-seeking-support/](https://berkeleyhighjacket.com/opinion/teen-vape-deaths-leave-bhs-addicts-seeking-support/) (Berkeley High School); [https://berkeleyhighjacket.com/opinion/vape-](https://berkeleyhighjacket.com/opinion/vape-detectors-solution-or-lost-cause/)
[detectors-solution-or-lost-cause/](https://berkeleyhighjacket.com/opinion/vape-detectors-solution-or-lost-cause/) (Berkeley High School); [https://www.wired.com/story/how-](https://www.wired.com/story/how-wily-teens-outwit-bathroom-vape-detectors/)
[wily-teens-outwit-bathroom-vape-detectors/](https://www.wired.com/story/how-wily-teens-outwit-bathroom-vape-detectors/) (Las Virgenes Unified School District).

⁷⁷ <https://www.nytimes.com/2018/04/02/health/vaping-ecigarettes-addiction-teen.html>.

1 detectors at one school.⁷⁸ Further, teaching is seriously disrupted when a device is activated and
2 an alarm triggered.

3 132. Implementing public awareness campaigns and other actions to deter use of electronic
4 cigarettes such JUUL has caused, and continues to cause, a financial and resource burden on the
5 State of California and on the County of Los Angeles.

6 **J. JLI SOLD TOBACCO PRODUCTS TO UNDERAGE**
7 **PERSONS IN CALIFORNIA**

8 133. California law prohibits selling, giving, providing, or otherwise furnishing electronic
9 cigarettes and tobacco products to underage persons. Prior to June 9, 2016, Business and
10 Professions Code section 22958 contained the prohibition as to tobacco products other than
11 electronic cigarettes, while Health and Safety Code section 119405 contained the prohibition as to
12 electronic cigarettes. Both prohibited the sale or provision of such products to those under 18
13 years of age. Effective June 9, 2016, the legislature amended these statutes by, among other
14 things, consolidating the prohibitions into a single code section, including electronic cigarettes
15 within the definition of tobacco products, raising the age for sale or furnishing of tobacco
16 products from 18 to 21 years of age, and increasing the applicable civil penalties for selling or
17 furnishing tobacco products to underage persons.

18 134. On information and belief, JLI sold, gave, furnished, and provided JUUL tobacco
19 products to underage persons located in California, including in the County of Los Angeles.
20 From early on, JLI employees suspected that underage individuals were buying their products. A
21 former JLI manager told *The New York Times* that “within months of Juul’s 2015 introduction, it
22 became evident that teenagers were either buying Juuls online or finding others who made the
23 purchases for them. Some people bought more Juul kits on the company’s website than they
24 could individually use — sometimes 10 or more devices.” As he explained, “First, they just
25

26 ⁷⁸ [https://redwoodcity.agendaonline.net/public/Meeting.aspx?AgencyID=110&](https://redwoodcity.agendaonline.net/public/Meeting.aspx?AgencyID=110&MeetingID=74496&AgencyTypeID=1&IsArchived=False)
27 [MeetingID=74496&AgencyTypeID=1&IsArchived=False](https://www.mercurynews.com/2019/09/26/peninsula-school-district-to-students-no-vaping-in-the-bathroom/) (proposal from Siemens);
28 [https://www.mercurynews.com/2019/09/26/peninsula-school-district-to-students-no-vaping-in-](https://www.mercurynews.com/2019/09/26/peninsula-school-district-to-students-no-vaping-in-the-bathroom/)
[the-bathroom/](https://www.mercurynews.com/2019/09/26/peninsula-school-district-to-students-no-vaping-in-the-bathroom/) (news article discussing the project and technology).

1 knew it was being bought for resale[....] Then, when they saw the social media, in fall and winter
2 of 2015, they suspected it was teens.”⁷⁹

3 135. Similarly, a former JLI manager told Reuters, “the first signs that Juul had a strong
4 appeal to young people came almost immediately after the sleek device went on sale in 2015 [....]
5 Employees started fielding calls from teenagers asking where they could buy more Juuls, along
6 with the cartridge-like disposable ‘pods’ that contain the liquid nicotine.”⁸⁰ According to the
7 former manager, JLI directors and early investors argued against “immediate action to curb youth
8 sales” because they “had no problem with 500 percent year-over-year growth” and “understood
9 the long-term benefit of young users on [JLI’s] bottom line....”⁸¹ In 2017, employees joked about
10 the traffic in JLI’s eCommerce site, “fuckin [sic] 40 people in checkout right now,” “40 teenagers
11 trying to buy 200 juuls.”

12 136. JLI knew that underage persons were purchasing products through its consumer
13 eCommerce site, and it did not have processes in place to adequately prevent such sales from
14 occurring. Even when JLI identified a particular individual as underage, it failed to put in place
15 safeguards to prevent that underage person from creating a new account and completing a
16 purchase. Victor Feno, Head of Fraud Detection, explained in December 2017, that sometimes he
17 became aware that a sale had been made to an underage customer when “[a] parent calls CS
18 [customer service] and complains,” when “[w]e’re charged back because the minor uses his/her
19 parent’s cc [credit card] without permission,” or when the “transactions are flagged for manual
20 review due to using too many ccs, e-mails, or general suspicious purchase pattern and while
21 manually reviewing the order it becomes apparent that the purchaser’s name does not match the
22 e-mail.” However, “what’s happening right now is we notice one account and shut it down, but
23 it’s difficult to prevent the minor from just creating a new account and passing at the auto-verify
24 level with the same info they used last time and just a new e-mail and/or phone number.” On
25 information and belief, as of December 2017, JLI did not have any system or safeguards in place
26

27 ⁷⁹ <https://www.nytimes.com/2018/08/27/science/juul-vaping-teen-marketing.html>.

28 ⁸⁰ <https://www.reuters.com/investigates/special-report/juul-ecigarette/>.

⁸¹ *Id.*

1 to prevent known underage individuals from making repeat purchases using new accounts with
2 the same personal information.

3 137. As late as July 2019, JLI hesitated to cancel orders to suspected underage accounts
4 because of concerns of leaving a written record. Kevin Attfield, a JLI Senior Developer, wrote to
5 the Age Verification team that 10 user accounts had been reported by schools and parents to JLI's
6 Track & Trace program as "possible [sic] related (not necessary [sic] controlled) by people under
7 21." He explained that "today our only admin control [in AV] is to FAIL the [user]. The user is
8 notified and unable to redo AV, both of which I believe are unwanted for this program
9 (disclaimer: today is the first I'm hearing about it)." Ultimately, the age verification team's
10 decision on how to treat the reported accounts was based on the method that left the least paper
11 trail, ultimately choosing to "delete" the reported user accounts rather than "reset" the accounts
12 because "'reset' is a term that means soft-deleting, plus some side effects," which are "email
13 notifications, a segment event and an audit log entry."

14 **K. JLI MADE ONLINE SALES TO CONSUMERS IN**
15 **CALIFORNIA WITHOUT PROPERLY VERIFYING**
16 **THEIR IDENTITIES**

17 138. California law has numerous protections meant to prevent online sellers from selling
18 e-cigarettes to persons under the age of 21. (Bus. & Prof. Code, § 22963.) These protections
19 originally applied only to the online sale of cigarettes, but as of June 9, 2016, they were expanded
20 to include the online sale of electronic cigarettes. (2016 Cal. Legis. Serv. 2nd Ex. Sess. Ch. 7
(S.B. 5) (WEST).)

21 139. These protections put the obligation on the online seller to verify the would-be
22 customer's identity and then to verify the age of that customer. First, the seller must attempt to
23 match the customer's name, address, and date of birth to information contained in records in a
24 database of individuals whose age has been verified to be 21 years or older by reference to an
25 appropriate database of government records. A number of third party vendors offer these age
26 verification services, by matching a customer's information to databases compiled from various
27 government data sources, such as electoral roll records, tax registries, motor vehicle department
28

1 records, and census bureau public registries.⁸² By matching the customer's name, age, and date
2 of birth, the third party vendor should be able to establish that an individual with that name is
3 actually associated with that address and whether that individual is over the minimum age for sale
4 of tobacco products.

5 140. If the seller, or third party vendor, cannot verify that the customer is over the age of
6 21 based on comparison with a database of government records, the seller can still sell to the
7 customer as long as the seller takes additional precautions. The seller must require the customer
8 to submit an age-verification kit consisting of an attestation signed by the customer stating that he
9 or she is 21 years of age or older along with a copy of a valid form of government identification.
10 Only after the age-verification kit is submitted confirming that the customer is in fact at least 21
11 years old, can the seller move forward with the sale.

12 141. California's remote sales law also includes provisions to ensure that the person
13 buying the tobacco products and the person receiving the tobacco products are one and the same.
14 These provisions are meant to prevent sales to an underage individual who might, for example,
15 try to use the identity of a parent to make the purchase but ask for the product to be shipped to a
16 neighbor's house to avoid detection, or a 21-year-old who purchases products in his own name
17 but has them delivered to an underage friend. The provisions are structured to make sure that the
18 purchase is confirmed and documented along the way, so that persons will be alerted if their
19 personal information has been used to make an unapproved purchase of tobacco products.

20 142. These provisions are as follows:

- 21 a. First, the seller must verify that the billing address on the check or credit card offered
22 for payment matches the address listed in the appropriate government database.
- 23 b. Second, the seller must ensure that, if the customer pays by credit card, the credit card
24 company will print the words "tobacco product" on the customer's credit card statement.
- 25 c. Third, the seller must call the customer after 5 p.m. to confirm the order prior to
26 shipping the tobacco products.

27 ⁸² [https://www.forbes.com/sites/forbestechcouncil/2018/12/27/how-to-choose-the-best-id-
28 verification-provider-for-your-business/#2fc5c8a45d7c](https://www.forbes.com/sites/forbestechcouncil/2018/12/27/how-to-choose-the-best-id-verification-provider-for-your-business/#2fc5c8a45d7c).

1 d. Fourth, the seller can only deliver the tobacco products to the purchaser's billing
2 address.⁸³

3 e. Fifth, the seller cannot deliver the tobacco products to any post office box.

4 143. Since its launch in June 2015, JLI has sold JUUL devices and JUUL pods directly to
5 consumers in California through its online store at juulvapor.com and later at juul.com. Between
6 June 2015 and November 2019, JLI has made over [REDACTED] shipments to addresses in California,
7 consisting of approximately [REDACTED] JUUL device kits, [REDACTED] starter kits, [REDACTED] refill
8 packs of pods, and [REDACTED] chargers, for a gross income of approximately \$ [REDACTED].
9 Although JLI has sold JUUL devices and JUUL pods directly to consumers in California since at
10 least June 2015, it did not procure a tobacco products retailer's license with the State of California
11 until August 20, 2019.

12 144. While JLI claims that it "only sell[s] to individuals who have been age-verified," its
13 age verification procedures have been flawed in multiple respects, allowing hundreds of
14 thousands of tobacco products to be sold and/or delivered to fictitious individuals at fictitious
15 addresses. Many of these improper sales may have been made to underage purchasers or to
16 resellers who sold the products to underage consumers on the grey market.

17 145. JLI's sales records reveal thousands of deliveries to phony names and addresses in
18 California. For example, JLI made 17 shipments to an individual named "Beer Can" in San
19 Francisco, whose purchases consisted of 2 JUUL devices, 5 starter kits, and 41 pod packs. Had
20 JLI attempted to verify "Beer Can's" name, address, and date of birth, JLI would have found that
21 there is no individual in California with that name. Other phony customers to whom JLI sent
22 product in California include "Patricia Juul," and "John JUUL Kordahl."

23 146. Similarly, JLI shipped thousands of orders to non-existent California addresses.
24 These range from streets that do not exist to obviously nonsensical locations such as "10 Los
25 Angeles," "none, San Francisco," "no signature needed, Palo Alto," "same, Modesto," "United
26 States, San Mateo," and "Sunnyvale, Sunnyvale." Had JLI verified age, address and date of birth

27
28 ⁸³ In the case of a nonsale distribution, the distributor must instead deliver the tobacco
products to the recipient's verified mailing address. (Bus. & Prof. Code, § 22963, subd. (b)(4).)

1 as is required by California law, it would have known that these addresses are incorrect or fake.
2 The fact that JLI made shipments to thousands of such sham locations leads to the conclusion that
3 JLI did not verify customer address as part of its age-verification process.

4 147. A January 29, 2018 email exchange between Tom Canfarotta, Director of Strategic
5 Accounts & Client Quality Services at Veratad (JLI's age verification vendor at that time) and
6 Annie Kennedy, JLI's Compliance Manager, reveals this to have been the case. Kennedy asked
7 Canfarotta why a particular customer had "passed via the address step (public record check)...but
8 we've since learned that is not a correct address—so we're curious as to how it passed." In
9 response, Canfarotta wrote, "Your current rule set does not require a full address match." He
10 went on to explain that approval of the customer was not an anomaly or a mistake; instead,
11 Veratad's age verification system was working exactly the way it was designed.

12 148. Canfarotta explained that Veratad was programmed to determine if potential
13 consumer data met each of four "rules." If Veratad could confirm that a potential consumer met
14 each of the four criteria, then it would return a report that the consumer had "passed" age
15 verification. The four rules were as follows:

- 16 - Person found in data sources
- 17 - Person is alive
- 18 - Person meets the minimum age requirement
- 19 - Person has supplied an accurate YOB [year of birth]

20 149. The rules, in turn, had their "own set of rules" to determine if a criteria was met.

21 For Veratad to establish that a "person [is] found in data sources," "any of below must be
22 true":

- 23 - fn [first name], ln [last name], street address and zip match
- 24 - fn, ln, full DOB [date of birth] and zip match
- 25 - fn, ln, full DOB and house number match
- 26 - fn, ln, YOB and SSN4 [last four digits of Social Security Number] match
- 27 - fn, ln, SSN4 and zip match
- 28 - fn, ln, SSN4 and house number match

29 150. The utilization of these six possible options meant that Veratad did not always
30 analyze the potential customer's name, full address, and date of birth when confirming identity
31 and age. Instead, Veratad was programmed to confirm identity based on snippets of the address,
32 by comparing first name, last name, date of birth, zip code or house ordinal. For some potential

1 customers, Veratad did not consider the address at all, but reviewed identity based on first name,
2 last name, and last four digits of Social Security Number. JLI was aware that Veratad's
3 parameters for age-verification caused accounts with "bad info" to be "AV approved," but as
4 Adam Bower, Senior Business Systems Manager, wrote, "if veratad passed it [then] it's not on
5 us."

6 151. By confirming identity without considering full address, JLI did not comply with
7 California's statutory requirements for remote sales. This was not merely a technical
8 transgression, but a systemic procedural flaw that had widespread consequences.

9 152. In divorcing the address from the other customer data in the age verification process,
10 JLI allowed California consumers to request that tobacco products be sent to locations other than
11 their permanent legal residences. This is exactly what California's statutory scheme attempts to
12 prevent, through provisions such as requiring that shipping address and billing address match and
13 requiring that product be shipped to the billing address only.

14 153. The failure to match consumer address meant that JLI shipped tobacco products to
15 locations throughout California, including in the County of Los Angeles, where the consumer did
16 not live. For example, JLI sent thousands of orders to commercial high rises and office parks. It
17 is unlikely these orders would have been approved had JLI attempted to match the address to
18 information in an appropriate government database and followed the requirement that the
19 shipping address and billing address be the same.

20 154. JLI also made remote sales to hundreds of licensed tobacco retailers through its
21 consumer eCommerce site. These orders, although purportedly made to individual customers
22 rather than through its distribution supply chain, were clearly bulk purchases for resale to the
23 general public. For example, between November 2016 and November 2017, JLI made 27
24 shipments to "1____ a ____" at 1005 N. Aviation Blvd., Manhattan Beach, which is the address of
25 Manhattan Beach Smoke Shop, a licensed tobacco retailer. Within the span of 10 months, JLI
26 sold and shipped to this address 100 device kits, 17 starter kits, 250 pod refill packs, and 60
27 chargers. Many of these were bulk sales, including multiple orders for 20 pod refill packs and a
28

1 single order for 18 device kits.⁸⁴ Based on the quantity of the purchases made at this address, JLI
2 should have known that these sales were being made to a tobacco retailer for resale and not to an
3 individual consumer. Additionally, the fact that Manhattan Beach Smoke Shop is a licensed
4 tobacco retailer is publicly available on the CDTFA website.⁸⁵ Furthermore, since May 2, 2016,
5 JLI listed “MB Smoke Shop” at that address on its website as an authorized reseller of JUUL
6 products.

7 155. Manhattan Beach Smoke Shop was not only purchasing product outside of the normal
8 distribution chain, it was also circumventing Manhattan Beach’s city-wide flavor ban. As of
9 January 2, 2016, Manhattan Beach banned the sale of tobacco products “containing, as a
10 constituent or additive, an artificial or natural flavor or an herb or spice,” with the exception of
11 mint, menthol, spearmint or wintergreen. (Manhattan Beach Municipal Code § 4.118.030(H).)
12 However, JLI sent starter kits to the Manhattan Beach Smoke Shop starting in November 2016,
13 despite the fact that those kits contained fruit and creme flavored pods. JLI delivered flavored
14 pods to numerous other addresses in Manhattan Beach after the flavor ban went into effect,
15 including 20 starter kits and 178 refill kits to “B ____ A ____” and 36 starter kits and 111 refill
16 kits to four ostensibly different individuals at a single address, 132 16th Street.

17 156. Manhattan Beach Smoke Shop is not an isolated example of a retailer purchasing
18 product through JLI’s consumer eCommerce site. JLI also made 32 remote sales to six different
19 individuals located at 104 North Coast Highway, Laguna Beach, the location of Laguna Oil
20 Mobil Gas Mart. Between July 2017 and February 2018, JLI shipped 775 packs of pod refills to
21 this address, in increments of 25 at a time. Had JLI conducted proper customer identification it
22 would have realized that this was a commercial address. JLI also should have known these were
23 sales to a retailer because Laguna Oil holds a California tobacco retailer license⁸⁶ and because JLI
24 listed Laguna Oil as an authorized JUUL reseller on its website starting in January 2017.

25
26 ⁸⁴ To prevent resales to underage consumers, JLI instituted a “bulk” sale policy by which
27 it claimed to prohibit sales to a single customer of more than 2 devices within a month and 15
28 refill pods packs within a month, as such bulk sales were more than could be used by an
individual.

⁸⁵ <https://www.cdtfa.ca.gov/taxes-and-fees/cigarette-licensees.htm>.

⁸⁶ <https://www.cdtfa.ca.gov/taxes-and-fees/cigarette-licensees.htm>.

1 157. Internal communications indicate that JLI was well aware that tobacco retailers were
2 posing as individual consumers to purchase product from its website. JLI faced chronic supply
3 shortages during which it was unable to provide adequate inventory to distributors. When
4 retailers were unable to receive product through the normal distribution channels, they would “get
5 tired of waiting and start buying directly from our [JLI’s] consumer website,” which JLI
6 attempted to keep stocked with product even when inventory was low. As early as August 2016,
7 JLI knew that “some retailers [were] placing multiple orders via EComm with different names
8 and addresses to circumvent the OOS [out of stock] situation.” According to JLI’s Eastern US &
9 Canada Division Sales Manager, Joseph Gladstone, “The OOS has been happening since April.
10 Retailers started ordering on our EComm site early in Q2 for sure.”

11 158. JLI eventually took some steps to curtail retailer orders including “black list[ing]
12 certain retailer credit cards from being used on the site” and “identif[ying] variations in email
13 addresses and repeating billing or ship to addresses.” Director of Customer Operations Kelly
14 Long explained, “We know what amounts retailers tend to order, are keeping a close eye on this
15 and spending a considerable amount of CS time to manually review these transactions each day.”
16 She added, “Fun fact: We’ve rejected/declined so many retailer orders in the last 4 weeks (we’re
17 talking orders of \$1k+) who were using American Express cards, that we’re now being charged
18 higher transaction fees via American Expresses [sic].”

19 159. In order to prevent retailers from purchasing through its consumer eCommerce site,
20 one JLI employee considered putting limits on the discounts available above a certain quantity of
21 product purchased, as that “would still leave it open for consumers but not retailers because they
22 wouldn’t be able to get enough product to make it worth it for them. Especially if they have to
23 routinely use a different email address to game the system.” However, other employees rejected
24 the plan for fear that it would “dramatically impact our growth trajectory in eCom....”

25 160. Regardless of whether or not JLI restricted bulk sales on its website, it could have
26 prevented retailer purchases in the first place by verifying complete addresses as part of its age
27 verification process. JLI’s failure to do so meant that JLI lost control of its distribution chain.
28

1 Retailers in California were able to, and did, purchase JUUL products both through licensed
2 distributors and directly through JLI's eCommerce website.

3 161. JLI's sale of tobacco products to retailers through its consumer eCommerce platform
4 stands in stark contrast to JLI's public claims that it strictly monitors the brick-and-mortar
5 retailers that sell its products. For example, on November 13, 2018, JLI released its "JUUL Labs
6 Action Plan," in which it announced it would be "increasing our secret shopper program, from
7 500 visits per month to roughly 2,000 per month, to verify that our standards are being followed
8 by retailers. We will also impose financial consequences against retailers caught by FDA selling
9 to minors or allowing bulk sales of our products. We will permanently cut off all sales to retail
10 stores with multiple violations."⁸⁷ However, these penalties are meaningless if retailers, whose
11 supply is "cut off", can simply order products through JLI's consumer eCommerce site. JLI also
12 purports to regulate the behavior of its over 90,000 retailers through contractual terms that impose
13 "penalties for noncompliance with underage restrictions."⁸⁸ Retailers who violate the provisions
14 by selling to underage individuals or making bulk sales risk termination of their authorized
15 retailer status, thereby losing the ability to sell JUUL product altogether. But these penalties
16 serve no purpose if retailers know they have an alternate channel of obtaining JUUL products
17 directly from JLI itself. Even JLI's ambitious plan to eventually supply product only to retailers
18 who have installed its Retail Access Control Standards ("RACS") point-of-sale-system is futile if
19 non-RACS retailers can bypass the official supply chain and obtain JUUL product directly from
20 JLI's consumer website.⁸⁹

21 162. On information and belief, retailers who were easily able to circumvent the legitimate
22 distribution network by purchasing directly through JLI's eCommerce site may also have evaded
23 other California laws, such as the prohibition on sales to underage individuals or a local ordinance
24
25

26 ⁸⁷ <https://newsroom.juul.com/juul-labs-action-plan/>.

27 ⁸⁸ <https://twitter.com/JUULvapor/status/968587677170839553>.

28 ⁸⁹ <https://techcrunch.com/2019/08/29/juul-introduces-a-new-pos-system-to-restrict-sales-to-minors/>.

1 restricting the sale of flavored tobacco products. According to an April 2018 Truth Initiative
2 survey, 74% of 12-17 year-olds obtained JUUL pods from a physical retail location.⁹⁰

3 163. Not only did JLI sell to licensed retailers through its eCommerce site, it also sold to
4 California businesses that were not licensed to sell tobacco products. For instance, in October
5 2016, JLI fulfilled a bulk order of 50 pod refill packs to “h__ c__” at 7040 Miramar Road, San
6 Diego. However, a Google search reveals that 7040 Miramar Road is the Natsumi Sushi &
7 Seafood Buffet, a restaurant that is not a licensed tobacco retailer.

8 164. In addition, within the span of 3 weeks, JLI fulfilled 26 warranty requests to
9 “R_____ G_____” at 10725 San Fernando Road, Pacoima, sending 26 JUUL products to this
10 address free of charge. This is the address for a medical supply retailer, Open Box Medical
11 Supply Inc., and not a licensed tobacco retailer.

12 165. Open Box Medical Supply Inc. was able to obtain 26 free JUUL products due to JLI’s
13 lax warranty replacement system. Under JLI’s one-year warranty policy, JLI offered free
14 replacement devices and pods to customers who entered the “serial number”⁹¹ of the purportedly
15 defective product. JLI’s general practice when a customer complained about faulty product, such
16 as leaky pods, was to ask the customer to mail the defective product back to JLI in order to be
17 eligible for a free replacement. JLI would email the customer a prepaid USPS label and would
18 instruct the customer to “[s]ecure the JUULpods in a small USPS flat rate envelope or similar
19 bubble wrapped envelope”; “[p]rint out the attached USPS shipping label and affix to the
20 package”; and “[d]rop off the package with USPS.” USPS regulations prohibit the shipment of
21 hazardous materials like liquid nicotine except when they meet the requirements of “consumer
22 commodity,” which means “a material that is packaged and distributed in a form intended or
23 suitable for sale through retail sales agencies or instrumentalities for consumption by individuals
24 for purposes of personal care or household use.” (49 C.F.R. § 171.8; USPS Publication 52,

25 _____
26 ⁹⁰ <https://truthinitiative.org/research-resources/emerging-tobacco-products/where-are-kids-getting-juul>.

27 ⁹¹ Although all JUUL devices have serial numbers on the bottom, JLI did not implement a
28 system to track devices by those serial number through manufacture, distribution, and retail until
the launch of its Track & Trace program in April 2019. The “serial numbers” customers used for
warranty claims were 8-digit alphanumeric codes printed on the back of the product packaging.

1 “Hazardous, Restricted, and Perishable Mail,” 39 C.F.R. § 113.2 [incorporating Publication 52 by
2 reference].) On information and belief, JLI made no effort to ensure that returning product was in
3 a condition intended or suitable for resale, and JLI did not instruct customers on how to package
4 the product to prevent further leakage during transit.

5 166. Underage users quickly realized that they could game the warranty system by
6 entering serial numbers of products purchased by other, of-age customers. The Reddit forum
7 UnderageJuul⁹² saw a robust trade in these serial numbers, whereby users exchanged serial
8 numbers of devices still under warranty to enable underage customers to obtain free JUUL
9 product.⁹³ A JLI employee observed that “[m]any of these ‘gamers’ also use missing package
10 claims to gain extra product,” by requesting warranty replacements without providing serial
11 numbers under the pretense that they had thrown away the packaging that listed the serial
12 number.

13 167. JLI was well aware of the weaknesses in its warranty replacement system. On
14 October 11, 2017, Kirk Johnson, Customer Service Team Lead, drew attention to the problem
15 when he reported that a single customer had redeemed “over **300** Juul device warranties” in “just
16 over a month.” According to Johnson, this customer had “initially purchased 60 of them and has
17 been ‘cycling’ them each week to get 60 more replacements (and I assume, re-selling the grey
18 market devices),” using different email addresses for each claim. Yoni Goldberg, Vice President
19 of Software Engineering, replied that “[t]he current implementation is too prone to fraud,” and
20 suggested “a much more robust solution” would be to “[r]estrict creating accounts based on AV
21 verification (Name, DOB and Zipcode must be unique). Using the same AV will lock the
22 account.” Johnson responded to the suggested improvements by writing, “I think we may be
23 forgetting that a large majority of legit JUUL users will definitely have had multiple device
24 failures and replacement – I believe pushing all RMA [return merchandise authorization] requests
25 for an RW [return warranty] would be a huge increase in case volume.”

26 ⁹² <https://www.reddit.com/r/UnderageJuul/> was started in July 2017 and banned from the
27 platform in January 2018.

28 ⁹³ Kavuluru, et al. *On the popularity of the USB flash drive-shaped electronic cigarette Juul* (2019) 28 Tobacco Control 110, 111.

1 168. JLI created a list of some of the worst offenders who had made over 50 return
2 merchandise authorization requests in a 30-day period. The list included two California
3 addresses: 31 Antilles Way, Tiburon⁹⁴ and 101 S Santa Cruz Ave., Los Gatos. Between May and
4 November 2017, JLI sent 132 device kits (120 of which were free warranty replacements), 1
5 starter kit, 93 JUUL pod packs, and 1 charger to 11 different named customers at 31 Antilles
6 Way. On information and belief, the multiple identities used to place orders to 31 Antilles Way
7 are fictitious. The other top offender in California, located at 101 South Santa Cruz Ave., Los
8 Gatos, received 45 free replacement device kits and 7 free replacement pod packs in a two-month
9 period. JLI shipped these products to three named individuals at 101 South Santa Cruz Ave.,
10 despite the fact that this is the address of a U.S. Post Office. Further, even after JLI employees
11 identified these two addresses as among the “worst offenders” on October 12, 2017, JLI
12 continued to ship product to these addresses, including free warranty replacements, until
13 November 28, 2017.

14 169. Rampant warranty replacement abuse continued through at least January 2019. As
15 one employee wrote, “We care about bulk purchases, so why are we happy to ship hundreds of
16 warranty pods to the same place?” The response from his coworkers: “lets [sic] make sure we use
17 language correctly here.”

18 170. Despite the fact that JLI knew consumers were fraudulently claiming warranty
19 replacements under false identities, for several years JLI did not attempt to match every
20 consumer’s name, address, and date of birth to an appropriate government database before issuing
21 a replacement product, as required under California law. On information and belief, JLI did not
22 even require age verification before issuing warranty replacements until November 10, 2016.
23 Even then, “[p]rior to August 31, 2017, before servicing a warranty claim, the customer support
24 agent would confirm that the customer had age verified on the JLI website (which, at the time,
25 was conducted by Veratad) by checking the customer had an existing account. If the customer
26 had not age verified on the website, the agent would inform the customer that he/she must verify

27 ⁹⁴ Order records indicate that while most of the shipments were made to 31 Antilles Way,
28 Tiburon, 24 were sent to 31 Antilles Way, “Tibruon,” and one was sent to 31 Antilles Way,
Belvedere.

1 his/her age through the website before proceeding.” It was not until August 31, 2017 that JLI
2 changed its warranty procedure to affirmatively require all customers requesting a warranty
3 replacement to go through age verification. On information and belief, the earlier failure to match
4 a customer’s name, address, and date of birth to data contained in an appropriate government
5 database facilitated the free distribution of tobacco products to thousands of underage individuals
6 in California.

7 **L. JLI APPROVED SALES TO CONSUMERS AFTER**
8 **ENCOURAGING THEM TO ALTER IDENTIFYING**
9 **INFORMATION**

10 171. JLI formulated its age verification process to maximize the number of “passes” rather
11 than to minimize the number of underage sales. JLI accomplished this objective by giving
12 potential consumers multiple opportunities to amend their personal information if a match was
13 not initially found in an appropriate government database. As Veratad representative Thomas
14 Canfarotta explained, JLI “has gone back and forth when it comes to allowing users to ‘try again’
15 with the Veratad data verification service. Right now [January 2018] you are not giving the
16 customer the opportunity to edit or provide a previous address, DOB or the last 4 of their SSN.
17 This has decreased your overall pass rate by 7-12% points.”

18 172. When JLI did allow consumers to alter their personal information after a failed first
19 age verification attempt, the pass rate increased significantly. A Veratad Performance Reporting
20 from August 5, 2017 shows that, for 1,963 consumers Veratad recorded 3,794 transactions – an
21 average of 1.93 attempts per consumer.⁹⁵ Only 966 consumers – less than half – passed age
22 verification on the first attempt. By allowing consumers to alter their personal information and
23 attempt age verification up to three times, JLI was able to increase its database match pass rate
24 from 49.2% to 61.2%.

25 173. Below is a slide created by a JLI employee showing part of the age-verification
26 process in which consumers were affirmatively encouraged to enter altered personal information.

27 ⁹⁵ At this point in time, Veratad ran combined performance reports for both juulvapor.com
28 and pax.com ecommerce sites. However, when Veratad started to run separate reports for JLI and
PAX, it was clear that only JLI customers had trouble passing age verification. Usually, almost
all PAX purchasers were able to pass age verification after only one attempt.

The screenshot states, “We weren’t able to verify your age using the information provided. Before your order can ship, please provide alternate information.”

If the Customer hasn’t been age verified...

If the customer hasn’t been age verified at the account level, this page will appear after the ‘Submit Your Order’ button has been clicked.

The first verification attempt will be made using a previous permanent address.

The system is trying to make a match using an official address, so it should be one that has been on a previous ID or utility bill.

For checkout-level age verification, the name and DOB fields will be populated by the information entered during checkout and locked.

! You're almost there...

Hey Carmelita,

For your convenience, your order #100189746, has been created.

Your order isn't complete yet... We weren't able to verify your age using the information provided.

Before your order can ship, please provide alternate information. If your age cannot be verified immediately we may ask for additional details from you. We'll walk you through each step.

PAX Labs Inc. is legally required to verify you are an adult to purchase our products.

Please use an address other than the billing address you provided during checkout. We can best verify your age using:

- Address on official ID's like your driver's license.
- A permanent address where you receive bills.
- A previous address where you lived for at least one year.

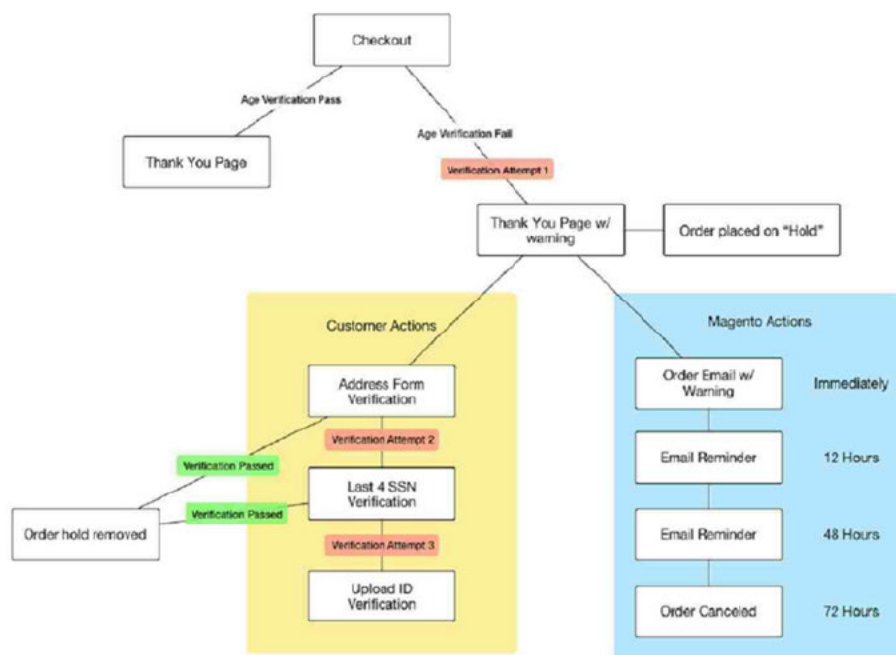
Order Number:
100189746

First Name:

Last Name:

Alternate Street Number:

174. Even the identification upload option gave consumers another opportunity to alter their identifying information. As one JLI employee noted, consumers could enter “completely new ID information on the Veratad hosted page” because “there’s no piece of data connecting the order info provided during check-out (which failed the previous verification steps) to the information customers provide during the ID upload.” The following flow-chart shows JLI’s initial age-verification process.



175. JLI customer service representatives actively encouraged those who failed age verification to “**make multiple accounts in order to pass AV [age verification].**” Customer service representatives would even alter identifying information for them; a Slack chat among customer service representatives confirmed that **representatives were authorized to “adjust the street address, apartment number, or zip code” associated with shipment.**

176. JLI customer service representatives were altering consumers’ names and addresses as recently as March 2019. In that month, a consumer passed age verification as D _____ S _____ in Seattle, Washington, but then a customer service representative “updated the addresses after it was shipped” and “issued a replacement order” to C _____ R _____ in San Francisco. Because the name and address were changed after age verification, the replacement order was sent to an individual in California who had not been age-verified. As Senior Developer Frederic Boivin explained: “1) customer check out with seattle address 2) order get sent to DCL [Logistics] and shipped 3) CS updates addresses to the SF one directly from admin, so now both shipping/billing point to the SF one 4) CS issue replacement for the above order and the addresses both point to the SF ones, so it passes compliance.” In response to Boivin’s concern, Senior

1 Developer Chris Todorov responded, “we probably shouldnt [sic] allow CS to edit addressees
2 after the 45 min cutoff[;] can only lead to confusion[.]” Boivin replied, “and/or huge compliance
3 violations [grin emoji.] [F]or all we know this is an underage person[.]” Eadon Jacobs, Director
4 of Product, Digital, was alerted to the issue, and he inquired whether customer service
5 representatives could use administrator settings to edit the customer name in the shipping page.
6 Boivin responded, “yes you can edit everything.” Jacobs’ response was a single word: “shit.”

7 177. JLI’s systemic failures in its age verification procedure were the result of intentional
8 decisions. In multiple emails, Veratad’s Canfarotta suggested eliminating various age verification
9 protocols in order to improve JLI’s overall pass rate. For example, in January 2018, he pointed
10 out that the introduction of a year of birth match requirement, which was introduced “in an effort
11 to stop fraud,” had decreased JLI’s pass rate by 5-7% points. He suggested that eliminating the
12 year of birth match and allowing individuals multiple attempts to alter their personal information
13 would “increase your pass rate from 68-72% to 80-89%.” He made these suggestions despite his
14 assessment that JLI had “a younger more transient demographic” than PAX customers and that
15 there were “potentially more underage users trying to purchase product.”

16 178. In order to reduce the costs of age verification and increase pass rates, Canfarotta
17 recommended that JLI approve potential consumers who were under 21 years old by matching
18 only year of birth (YOB) but not month and day. He explained, “if someone’s birthday is March
19 3, 1997 and they enter that DOB today [March 2, 2018] they will be blocked because they are still
20 20. This is costing you [JLI] about 200 transactions per day, so may be something to consider to
21 save costs.” He continued, “this will be addressed in the new iframe” for DCAMS+ (the system
22 JLI used to review uploaded customer identification), “which I should have today/Monday.”

23 179. On information and belief, JLI decided to stop checking day and month of birth as
24 part of its age verification process. As Compliance Manager Annie Kennedy messaged Eadon
25 Jacobs, she tried testing the system in January 2018 by entering a false date of birth and was
26 surprised that she passed age verification without having to upload an ID. Jacobs replied,
27 “[T]hat’s apparently a rule we have in the current flow too[.] [I]f you match name + address +
28 year then you pass[.] [I] found that out last week and we have the rule built into veratad[....] [I]

1 feel like that makes it really easy for a kid to pass with their parent's info...[I]'m not a fan of that
2 btw, but it's the existing process so wasn't going to change it." Jacobs went on to ask, "where
3 this rule originally came from?" Kennedy replied, "it was initially a compr[om]ise[.]
4 [O]riginally we only soft checked the YOB[.] [W]e wanted to hard check the complete DOB
5 because got a lot of push back (prior to AV [age verification] and youth prevention being some of
6 our main company goals), so we settled with a hard check on YOB at that time[.]" This exchange
7 illustrates that JLI was well aware that by choosing to set the software to check only year of birth,
8 but not day and month of birth, sales to consumers under the age of 21 would be approved.

9 180. By allowing consumers to create multiple accounts and continuously alter their
10 identifying information, JLI violated California law and increased the probability that it was
11 selling tobacco products to underage individuals. California law makes no allowance for remote
12 sellers to give individuals multiple chances to match name, address and age against an appropriate
13 government database before requiring that the customer submit an age attestation kit. In contrast,
14 JLI sold its products to individuals after running various permutations of their personal
15 information against Veratad's database multiple times. Although JLI did ask some consumers to
16 upload IDs, JLI admitted that it never used "'age-verification kits' in the sale of its products."

17 **M. BETWEEN JUNE 9, 2016, AND JUNE 20, 2017, JLI DID**
18 **NOT CALL CUSTOMERS TO CONFIRM THEIR**
19 **ORDERS**

20 181. Starting on June 9, 2016, California has required remote sellers of electronic
21 cigarettes to make a phone call to the purchaser after 5 p.m. confirming the order prior to
22 shipping. (Bus. & Prof. Code, § 22963, subd. (b)(3).) The purpose of these calls is to alert the
23 consumer that an order had been placed in his or her name, thus giving the individual an
24 opportunity to prevent a fraudulent order. On information and belief, JLI did not start to place
25 calls to California purchasers until approximately June 20, 2017. Prior to this date JLI sent out
26 approximately [REDACTED] shipments. By failing to place these calls JLI failed to comply with a
27 legally required safeguard that California has deemed important in preventing the underage sale
28 of tobacco products.

1 **N. JLI SHIPPED TOBACCO PRODUCTS TO POST OFFICE**
2 **BOXES**

3 182. One of the cornerstones of California's remote sales statute is to limit the locations to
4 which tobacco products can be delivered in order to prevent diversion to underage persons.
5 California requires that a consumer's shipping address match his or her billing address and
6 prohibits deliveries of tobacco products to Post Office boxes.

7 183. Despite these restrictions, JLI made at least 1,582 shipments of tobacco products to
8 Post Office boxes in California between June 9, 2016 and November 2019. These deliveries
9 comprised approximately 5,587 JUUL pod refill kits, 624 JUUL devices, and 49 chargers. Many
10 of these Post Office box deliveries were to repeat customers, and numerous shipments involved
11 bulk purchases. For instance, JLI made 15 shipments to P.O. Box 963, Arnold, California, some
12 of them containing as many as 20 JUUL pod packs.

13 **O. JLI DIRECTLY MARKETING AND ADVERTISED JUUL**
14 **PRODUCTS TO MINORS IN CALIFORNIA WHOM IT**
15 **KNEW TO BE UNDERAGE BECAUSE THEY HAD**
16 **FAILED AGE VERIFICATION**

17 184. The Privacy Rights for California Minors in the Digital World (Bus. & Prof. Code,
18 § 22580) prohibits an operator of an Internet Web site, online service, online application, or
19 mobile application from marketing or advertising specified types of products or services to a
20 person under the age of 18. Products and services subject to this advertising and marketing
21 restriction include tobacco products, electronic cigarettes, alcoholic beverages, firearms,
22 ammunition, cannabis products, and drug paraphernalia.

23 185. From January 1, 2015 to the present, Defendants operated a number of internet
24 websites, including: www.juullabs.com, www.juulvapor.com, and www.juul.com.⁹⁶ In May
25 2018, JLI combined www.juullabs.com and www.juulvapor.com and redirected them to
26 www.juul.com.

27 ⁹⁶ Prior to May 2018, Defendant JLI operated www.juullabs.com to provide corporate and
28 investor information, while www.juulvapor.com was JLI's e-commerce site to sell JUUL tobacco
 products to consumers.

1 186. On information and belief, JLI violated the privacy rights of California minors by
2 directly marketing and advertising JUUL tobacco products to children that it knew were minors
3 because those individuals had failed JLI's own age verification. Despite JLI's knowledge that
4 specific individuals had failed age verification, JLI used information specific to these minors,
5 such as personal email addresses, to directly market and advertise JUUL tobacco products to
6 minors via email. Despite knowing that young people who had not passed age verification were
7 receiving JLI marketing and advertising materials, JLI did not correct this issue.

8 187. In July 2018, a California minor under the age of 18 who worked as an intern for Dr.
9 Jackler at SRITA attempted to purchase JUUL tobacco products from JLI's eCommerce website.
10 The minor used a personal email address and created a password to sign up for a JLI account.
11 After setting up the account, the student was directed to an age verification page that provided a
12 drop-down selection menu to select day, month, and year for "legal date of birth as it appears on
13 valid government issued ID." The drop-down menu for year did not include any year more recent
14 than 1997. The minor selected 1997. The verification page also asked for legal name, the last
15 four digits of the student's Social Security number, and current or former address. After entering
16 the information, an error message appeared stating that the student's date of birth was "out of
17 valid range."

18 188. Even though the minor failed JLI's age verification and was not able to purchase a
19 JUUL product directly from JLI's eCommerce website, JLI used the minor's personal email
20 address to send the minor a slew of marketing and advertising materials for JUUL products.

21 189. Subsequent to the minor failing JLI's age verification, JLI sent the minor numerous
22 advertising and marketing emails to the minor's personal email address. On July 26, 2018, JLI
23 sent an email to the minor from support@e.juul.com titled "Want \$15 in JUUL Credit?" The
24 email offers \$15 in credit if the recipient refers "an adult smoker" to purchase a JUUL product.

----- Forwarded message -----
From: JUUL <support@juul.com>
Date: [REDACTED]
Subject: Want \$15 in JUUL Credit?
To: [REDACTED]

WARNING: This product contains nicotine.
Nicotine is an addictive chemical.



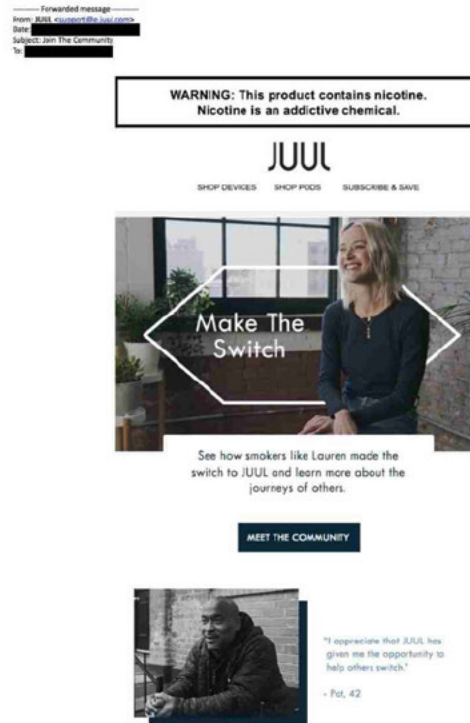
190. Several hours later that day, the minor received another marketing email from JLI. The email came from support@e.juul.com and was titled "See How Much You Could Save." The email suggests that the recipient could save \$65 per month by purchasing JUUL products rather than cigarettes.

----- Forwarded message -----
From: JUUL <support@juul.com>
Date: [REDACTED]
Subject: See How Much You Could Save
To: [REDACTED]

WARNING: This product contains nicotine.
Nicotine is an addictive chemical.



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2 191. Three days later, on July 29, 2018, the minor received yet another advertising email
3 from JLI. The email came from support@e.juul.com and was titled “Join the Community.” The
4 email encourages the recipient to “make the switch” and purchase JUUL products. The email
5 shows photographs and quotations that purport to be from JUUL users who have switched from
6 cigarettes.



19 192. JLI continued to directly market and advertise to the minor using the minor's email
20 address.

21 193. On July 31, 2018 JLI sent the minor two more advertising and marketing emails from
22 support@e.juul.com. The first was titled “Start Your Journey.”

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Forwarded message
From: JUUL <support@juul.com>
Date: [REDACTED]
Subject: Start Your Journey
To: [REDACTED]

WARNING: This product contains nicotine.
Nicotine is an addictive chemical.

JUUL

SHOP DEVICES SHOP PODS SUBSCRIBE & SAVE



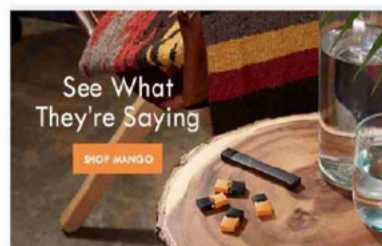
194. The second marketing email from JLI was titled “Don’t Take Our Word For It.” The email promoted JUUL’s mango flavor pods and includes what appear to be quotations from two five-star reviews of the mango flavor by JUUL customers.

Forwarded message
From: JUUL <support@juul.com>
Date: [REDACTED]
Subject: Don't Take Our Word For It
To: [REDACTED]

WARNING: This product contains nicotine.
Nicotine is an addictive chemical.

JUUL

SHOP DEVICES SHOP PODS SUBSCRIBE & SAVE



★★★★★
“The mango pod is straight out of this world and I love them so much.”
MATTHEW B.

★★★★★
“I’ve tried every flavor and nothing satisfies me like the mango.”
HEATHER M.

195. Concerned by the marketing materials being sent to the minor, Dr. Jackler reached out to JLI on July 4, 2018. On July 31, 2018, he wrote to “suggest that your IT team look into the

1 fact that rejected under age purchasers are subscribed to JUUL’s marketing emails. Also, under
2 age individuals can sign up for your newsletter (despite the >21 requirement as there is no age
3 gate).”

4 196. Weeks after Dr. Jackler alerted JLI to this problem, and immediately after an exposé
5 by *The Washington Post* that detailed Dr. Jackler’s findings,⁹⁷ JLI employees conducted an
6 internal analysis to verify his claims. This analysis determined that, as of August 3, 2018, JLI had
7 approximately 529,000 unique email addresses on its digital marketing list that had never been
8 age-verified. In contrast, 420,000, or fewer than half, of the email addresses on JLI’s marketing
9 list represented consumers who had self-identified as at least 21 years of age and had passed age
10 verification.

11 197. On August 4, 2018, JLI internally implemented a new policy to “only send any emails
12 to self-identified 21+ users who have passed the age-verification process.” However, JLI was
13 careful not to broadcast to any of the “non-AV’d users” that this was a policy change for fear it
14 could “potentially be picked up by the press.” As Matt David wrote, “Telling non-AV’d users
15 they need to pass an AV test is a massive red flag to press. Crystal clear we didn’t do it in the
16 past. Better to frame it as a broader new policy; we can mention other things we’re doing.”
17 Ultimately, JLI decided to send out messages to the 529,000 email addresses informing them that
18 JLI had “upgraded our age verification system” to require “the last four digits of your social
19 security” or an uploaded “image of your government-issued ID.” In response to this message,
20 only 2,700 consumers attempted age-verification, and of those, only 1,900 passed (0.36% of the
21 original 529,000).

22 198. Despite JLI’s representation that it had upgraded its age verification system, JLI was
23 aware that it was continuing to send marketing and advertising emails to youth who had failed
24 JLI’s age verification process. In October 2018, a JLI employee reported that one of her test
25 underage accounts “got a marketing email.” In April 2019, JLI employees discussed a complaint
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28 ⁹⁷ Paul, *E-cigarette Maker Juul Targeted Teens With False Claims Of Safety, Lawsuit Claims*, *The Washington Post* (July 30, 2018).

1 from an underage person who was nevertheless receiving marketing and advertising emails from
2 JLI.

3 199. Eadon Jacobs asked that another JLI employee check the account associated with a
4 particular email address, explaining: “She informed us that she is underage and will contact the
5 B[etter] B[usiness] B[ureau] if she receives any further communications from us.” Amy Ding,
6 Digital Product Manager, responded “this person was marked as underage by Compliance, locked
7 on our end.” The underage person’s JLI account was created in December 2018 and had been
8 marked as “a Veratad assessment data match second address” with “failure type underage.” The
9 underage person received emails from the time her JLI account was created in December 2018
10 until she complained that she would report JLI to the Better Business Bureau at the end of April
11 2019. Amy Ding pointed out that “Marketing uses a combination of a number of indicators to
12 determine whether a user is ‘marketable’. Is the issue that she’s receiving e-mails? ... I don’t see
13 any indication on our side that she was marked as ‘passed A[ge] V[erification].’”

14 **VI. THE MANAGEMENT DEFENDANTS ACTIVELY PARTICIPATED IN JLI’S**
15 **DECEPTIVE PRACTICES**

16 200. The Management Defendants were heavily involved in JLI’s unlawful activities. In
17 2015, Monsees was the chief executive officer of JLI, while Bowen, Valani, Pritzker, and Huh
18 were fellow members of the board of directors. Valani, Pritzker, and Huh determined that
19 Monsees as CEO would be unable to achieve the growth demanded by investors—i.e. the profits—
20 and forced Monsees to step down as CEO.⁹⁸

21 201. Ten months passed before a new Chief Executive Officer was appointed.⁹⁹ During
22 this period, the C-Suite executives reported directly to Valani, Pritzker, and Huh.¹⁰⁰ Huh acted as
23 the company’s CEO.¹⁰¹

24 202. Management Defendants Pritzker, Valani, and Huh then used their newly formed
25 Executive Committee to expand the number of JUUL product users through misleading and false

26 ⁹⁸ Julie Creswell & Sheila Kaplan, *How Juul Hooked a Generation on Nicotine*, *N.Y.*
27 *Times* (Nov. 23, 2019), <https://www.nytimes.com/2019/11/23/health/juul-vaping-crisis.html>.

⁹⁹ *Id.*

¹⁰⁰ Ettinger, Laura, *The Devil’s Playbook*, 155-156 (2021).

¹⁰¹ *Id.* at 172-73.

1 advertising and representations to the public. They overrode other board members' arguments that
2 JLI's youth oriented marketing campaign should be abandoned or scaled back, directed the
3 continuation of the marketing campaign that they knew was actively targeting youth, and cleaned
4 house at JLI.¹⁰² Once their leadership was secure, defendants Pritzker, Valani, and Huh pressed
5 for even "more aggressive rollout and [marketing]."¹⁰³

6 203. JLI's board members, and especially Pritzker, Valani, and Huh, were referred to by
7 JLI executives as "more involved than most."¹⁰⁴ JLI's 2018 investment memoranda stated that
8 their two largest investors—Valani and Pritzker—are "active on the board as well as providing
9 strategic advice to the company on a weekly basis."¹⁰⁵

10 204. Further, the JLI board met more frequently than is typical. They had weekly board
11 calls in addition to monthly meetings and Huh joined these calls even before he took a seat on the
12 board.

13 205. As a result, the Management Defendants controlled JLI and took actions to grow the
14 pool of nicotine-addicted users of JLI products, for their own financial gain.

15 **A. The JLI Directors Were Heavily Involved in the Youth Targeted**
16 **Advertising**

17 206. The Management Defendants were heavily involved in decisions about branding the
18 Juul device. The Management Defendants were so involved, in fact, that then-Chief Operating
19 Officer Scott Dunlap worried that "the board [will] try and write copy" for future branding
20 changes, and he encouraged then Chief Marketing Officer Richard Mumby to prepare branding
21 materials in advance so that "we could lead that discussion, should it happen."¹⁰⁶ The
22 Management Defendants were presented with the entire JLI marketing scheme prior to launch.
23 This included trying to "win the 'cool crowd' in critical markets," "us[ing] external audiences to
24 communicate nuanced messages around early adoption 'coolness.'"¹⁰⁷

25 ¹⁰² *Id.* at 155-56.

26 ¹⁰³ JLI04308326.

27 ¹⁰⁴ JLI00215453.

28 ¹⁰⁵ JLI01382309.

¹⁰⁶ JLI00215453.

¹⁰⁷ JLI01435994.

207. In January 2015, JLI’s Board of Directors—then comprising of Monsees, Bowen, Pritzker, Valani, and Hank Handelsman (in Valani’s second seat)—met and discussed JLI’s marketing, including the goal to win the “cool crowd,” using influencers and social media, and the planned partnership with the #1 youth media magazine, Vice.¹⁰⁸ Because Pritzker and Valani controlled the majority of the Board seats at that time, they had veto power over the launch plans. The launch included youthful advertising with no representations of nicotine content.

208. On March 23, 2015, the board met and discussed the upcoming advertising campaign, known as the Vaporized campaign. Chelsea Kania, then Brand Manager, stated she met with the board to discuss the models who would be used in the marketing collateral accompanying the JUUL launch. At that meeting, “there was some commentary at the youthfulness of the models[,]” but “nobody disliked them” and “everybody agreed they are pretty ‘effective[.]’”¹⁰⁹ She also stated that the board could pick different images if those selected were problematic.¹¹⁰ There was no further push back and JLI’s board of directors signed off on the company’s launch plans.”¹¹¹ According to a source, Monsees, personally reviewed images from the billboard photo shoot while it was in session.”¹¹² A senior manager later told the New York Times that “he and others in the company were well aware” that the marketing campaign “could appeal to” teenagers.¹¹³

209. Further, on June 17, 2015, the board heard “an update on the rollout of JUUL,” where Richard Mumby, then Chief Marketing Officer, provided the board with his perspective on the JUUL launch and customer feedback.¹¹⁴ “The Board discussed the Company’s approach to advertising and marketing and portrayal of the product, which led to a discussion of the

¹⁰⁸ JLI11637955- JLI11637979.

¹⁰⁹ JLI00212523.

¹¹⁰ *Id.*

¹¹¹ Ainsley Harris, *How Juul, founded on a life-saving mission, became the most embattled startup of 2018*, Fast Company (Nov. 19, 2019), <https://www.fastcompany.com/90262821/how-juul-founded-on-a-life-saving-mission-became-the-most-embattled-startup-of-2018>.

¹¹² *Id.* The article was circulated within JLI as referenced as balanced overall and a pretty good article. JLI01143014.

¹¹³ Matt Richtel & Sheila Kaplan, *Did Juul Lure Teenagers and Get ‘Customers for Life’?*, N.Y. Times (Aug. 27, 2018), <https://www.nytimes.com/2018/08/27/science/juul-vaping-teen-marketing.html>.

¹¹⁴ JLI01426553.

1 Company's longer term strategy led by Mr. Monsees."¹¹⁵ During that meeting, according to Scott
2 Dunlap, then Chief Operating Officer, Pritzker said that the marketing campaign "feels too
3 young."¹¹⁶ Nonetheless, the campaign continued.

4 210. The Management Defendants knew that the advertising campaign targeted youth and
5 included youthful models for an age-restricted product, but nevertheless approved the campaign.
6 Monsees later testified to Congress that the board had final say over all marketing campaigns, and
7 that from 2015 onwards, the board closely reviewed and approved marketing plans.¹¹⁷

8 **VII. THE MANAGEMENT DEFENDANTS WERE AWARE THAT**
9 **MINORS WERE USING THEIR COMPANY'S PRODUCT**

10 211. According to an anonymous former company manager: "Inside the company, the first
11 signs that Juul had a strong appeal to young people came almost immediately after the sleek device
12 went on sale in 2015."¹¹⁸ "[E]arly signs of teenage use kicked off an internal debate Some
13 company leaders . . . argued for immediate action to curb youth sales The counter-argument
14 came from other company directors, including healthcare entrepreneur Hoyoung Huh and other
15 early investors"—that is, Pritzker and Valani—who "argued the company couldn't be blamed for
16 youth nicotine addiction."¹¹⁹ Adam Bowen admitted that "he was aware early on of the risks e-
17 cigarettes posed to teenagers[.]"¹²⁰

18 212. The Management Defendants knew that the advertising campaign targeted youth and
19 included youthful models for an age-restricted product, but nevertheless approved the campaign.

20 213. On July 9, 2015, Alexander Asseily, then a board member, summarized his
21 conversation with Valani and Pritzker about the "Juul approach," noting that Juul should consider

22 _____
23 ¹¹⁵ JLI01426553. Minutes show that Huh was present at the meeting despite not being a
board meeting at that time.

24 ¹¹⁶ JLI00215453.

25 ¹¹⁷ Examining JLI's Role in the Youth Nicotine Epidemic: Part II: Hearing Before the
Subcomm. on Econ. & Consumer Policy of the Comm. on Oversight & Reform, H.R.,
116th Cong. 70 (2019) (statement of James Monsees, Co-Founder, JUUL Labs, Inc.).

26 ¹¹⁸ Chris Kirkham, *Juul Disregarded Early Evidence it was Hooking Teens*, Reuters (Nov.
5, 2019), <https://www.reuters.com/investigates/special-report/juul-ecigarette/>.

27 ¹¹⁹ *Id.*

28 ¹²⁰ Matt Richtel & Sheila Kaplan, Did Juul Lure Teenagers and Get 'Customers for Life'?,
supra n.113.

1 a different marketing plan or run the risk of being associated with traditional tobacco companies,
2 which “could mean not doing a lot of things we thought we would do like putting young people in
3 our poster ads or drafting in the wake of big players in the market.”¹²¹ However, according to the
4 Reuters article, while some may have ethical quandaries about youth sales, “a lot of people had no
5 problem with 500 percent year-over-year growth.”¹²²

6 214. Despite this knowledge and these concerns, the board continued with the Vaporized
7 campaign.

8 215. In December 2015, the board meeting minutes continued to state that the
9 Management Defendants wanted “more aggressive rollout and mkting [marketing].”¹²³

10 216. By 2016, the Management Defendants were aware that JLI’s efforts to market to
11 youth were effective. In March 2016, Richard Mumby, Chief Marketing Officer, wrote an email
12 to Huh about a marketing rebrand because Huh “indicated that [he] would review our brand and
13 collateral positioning on behalf of the board.”¹²⁴ According to other complaints, the document
14 attached noted that:

- 15 • “The models that we used for the #Vaporized campaign appeared to be too youthful
16 for many consumers (and the media)”¹²⁵
- 17 • “Many consumers were confused by our collateral as it gave little reference to
18 product features and performance”¹²⁶
- 19 • “We need to be sensitive to the subjectivity of youthfulness by positioning the brand
20 to be mature and relatable.”¹²⁷

21 217. Instead of acting on this information, the age gates were weakened. In October 2015,
22 PAX Labs employees (subsequently JLI) noted that only 74% of users were able to pass the age
23

24 ¹²¹ JLI00214584.

25 ¹²² Chris Kirkham, Juul Disregarded Early Evidence it was Hooking Teens, *supra* n.118.

26 ¹²³ JLI04308326.

27 ¹²⁴ JLI00342956.

28 ¹²⁵ JLI00342957.

¹²⁶ *Id.*

¹²⁷ *Id.*

1 gate on the website, which “amounts to a steep decline in sales for us.”¹²⁸ Instead of strengthening
2 this program, the age gate was weakened so that 92% of users were able to pass.¹²⁹

3 218. In July 2016, Bowen was made aware of social media posts involving minors with
4 Juul products. He wrote an email stating, “I’m astounded by this ‘ad campaign’ that apparently
5 some rich east coast boarding school kids are putting on. . . . Read some of the captions - they are
6 quite creative. <http://instagram.com/juulboyz>.”¹³⁰ Even then, the response of Management
7 Defendants was to consider leveraging this user-generated creativity.¹³¹

8 219. In 2016, the JLI board of directors transferred the CEO position to Tyler Goldman,
9 and then later to Kevin Burns. However, the Management Defendants remained actively involved
10 in all aspects of JLI’s marketing and messaging through monthly Board meetings and frequent
11 emails to Bowen, Monsees and CEO Burns.

12 220. In 2017, the Board—controlled at that time by Pritzker, Valani, and Huh—continued
13 to make decisions on the details of the media plans for marketing. For example, a JLI marketing
14 employee reported to JLI’s media vendor, Mediasmith, that JLI’s chief marketing officer
15 “presented the entire media plan to the board,” but “we need to put the plan on hold” because the
16 Board did not approve. She also acknowledged that JUUL’s board was aware their message was
17 reaching a youth audience, noting that “[w]hat we need to do now is educate the board” on “the
18 ways we can ensure [the] message is NOT reaching an unintended, young audience.”¹³²

19 221. In December 2017, Valani directed aspects of JLI’s distribution and dissemination.
20 For example, he initiated a conversation checking the progress on plans to sell JUUL devices in
21 self-service vending machines, asking for early design images and constructs.

22 222. Pritzker also controlled several aspects of JLI’s branding. He was directly involved
23 in creating JUUL’s corporate website in May 2017.

24
25 ¹²⁸ JLI03492882.

26 ¹²⁹ Kate Horowitz’s LinkedIn profile, <https://www.linkedin.com/in/k8horowitz> (last
visited Oct. 7, 2021).

27 ¹³⁰ JLI00382271.

¹³¹ *Id.*

28 ¹³² JUULCAAG0030608.

1 223. On April 22, 2017, a retailer emailed JLI’s director of scientific affairs, Gal Cohen,
2 and stated that “I am very concerned about the Juul products. People's addiction behavior is
3 SEVERE with this Juul device.”¹³³ He went on to state that, “kids are getting hooked on this thing
4 and they don't even understand half the time that it has nicotine in it! Little kids... like 14 and 15
5 year olds” and that “I have kids calling and trying to order using delivery services as well. We will
6 only allow pick up and delivery for regular customers whose ID we have already checked... but
7 they TRY and that worries me... because the smoke shops and bodegas are NOT checking that the
8 person they are picking up for is old enough to buy the product.”¹³⁴ This email was forwarded to
9 Adam Bowen, indicated that he was made aware that minors were accessing this product.¹³⁵

10 224. Later, in August 2017, a JLI marketing employee wrote to their media company
11 stating, “[w]hat we need to do now is educate the [sic] board on media targeting tactics and as well
12 as the [] ways we can ensure message is NOT reaching an unintended, young audience. . . .
13 Understand we are going backwards a bit *as most of these tactics have been used by us in the past*,
14 but with JUUL popularity at an all-time high, the board is that much more sensitive to the media &
15 messaging we run.”¹³⁶ (emphasis added).

16 225. In his sworn testimony before the North Carolina Attorney General’s Office,
17 Management Defendant Monsees claimed that JUUL redirected its marketing in October 2015
18 after late-night talk show host Stephen Colbert made fun of JUUL’s marketing by showing a clip
19 of youthful models dancing to techno music in a JUUL promotion.

20 226. That testimony is contradicted by other communications. For instance, in January
21 2016, Defendants Bowen and Valani excitedly discussed a Vanity Fair photo of music celebrity
22 Katy Perry carrying a JUUL device at the Golden Globes awards ceremony.¹³⁷ Valani asked
23 Bowen how they could make the image “go viral.”¹³⁸

24
25 ¹³³ JLI00158133.

26 ¹³⁴ *Id.*

27 ¹³⁵ *Id.*

28 ¹³⁶ JLI00483425-26.

¹³⁷ JLI20843163.

¹³⁸ *Id.*

227. The Management Defendants also sought to have influencers advertise the product, as an alternative to direct advertising.

228. JLI and the Management Defendants understood that celebrity influencers could “spread the word” about JUUL. In early July of 2015, Pritzker emailed Monsees to request that JLI send free JUUL products to a member of the band Widespread Panic. Monsees ensured that JUUL’s Experiential Marketing Director sent them out overnight to the band member. In a side email to JUUL’s Marketing Director, she described the band member as an “influencer” and one of JUUL’s greatest “champions.”¹³⁹

229. JLI and the Management Defendants continued their influencer program until November 2018 and allowed JUUL’s sponsored hashtag, #juulmoment, to continue to display images of youth using JUUL into 2020.

230. Further, board meeting minutes show that the Management Defendants were more focused on debunking studies, and responding to negative press, rather than engaging in substantive changes or youth prevention in a timely fashion.

231. For example, on January 2, 2018, a new JAMA Pediatrics report concluded that non-cigarette tobacco use could lead youth to try cigarettes. In an email to the Board and CEO Kevin Burns, Management Defendant Valani set out JLI’s response priorities, putting debunking the study ahead of actual youth prevention strategies or actions.

232. Ultimately, the Management Defendants were a substantial factor in causing the public health crisis faced by the People.

FIRST CAUSE OF ACTION AGAINST JLI
(Violations of the STAKE Act, Business & Professions Code § 22958, and Health & Safety Code § 119405 (repealed): Selling, Giving, Providing, or Furnishing Tobacco Products to Underage Persons)

233. The People reallege all paragraphs set forth above and incorporate them by reference as though they were fully set forth in this cause of action.

¹³⁹ JUULCAAG0484462.

1 234. California law prohibits selling, giving, providing, or otherwise furnishing electronic
2 cigarettes and tobacco products to underage persons. Prior to June 9, 2016, Health and Safety
3 Code section 119405 prohibited the sale or provision of electronic cigarettes to persons under 18
4 years of age. Effective June 9, 2016, Business & Professions Code section 22958, subdivision
5 (a)(1), prohibits selling, giving, or furnishing tobacco products, including electronic cigarettes, to
6 persons under 21 years of age.

7 235. JUUL products are “Electronic Cigarettes” as defined by Health and Safety Code
8 section 119405, subdivision (b).

9 236. JUUL products are “Tobacco Products” as defined by Business & Professions Code
10 section 22950.5, subdivision (d)(1).

11 237. Since June 9, 2016, and continuing to the present, Defendants have sold, given, or
12 furnished and continue to sell, give, or furnish tobacco products to persons in California under 21
13 years of age.

14 238. Between mid-2015 and June 9, 2016, Defendants sold, gave, or furnished electronic
15 cigarettes to persons in California under 18 years of age.

16 239. The People request an order assessing civil penalties for each sale, gift, or furnishing
17 of a tobacco product to a person in California under 21 years of age from June 9, 2016 to the
18 present pursuant to the schedule in Business and Professions Code section 22958, subdivision
19 (a)(1).

20 240. The People request an order assessing a fine for each sale or provision of an
21 electronic cigarette to a person in California under 18 years of age prior to June 9, 2016 pursuant
22 to the schedule in Health and Safety Code section 119405, subdivision (c).

23 **SECOND CAUSE OF ACTION AGAINST JLI**
24 **(Violations of the Remote Sales Provisions of the STAKE Act)**
25 **(Bus. & Prof. Code § 22963)**

26 241. The People reallege all paragraphs set forth above and incorporate them by reference
27 as though they were fully set forth in this cause of action.
28

1 242. California's STAKE Act, Business & Professions Code section 22963, subdivision
2 (a), prohibits the remote sale, distribution, or nonsale distribution of tobacco products directly or
3 indirectly to any person under 21 years of age through the United States Postal Service or through
4 any other public or private postal or package delivery service.

5 243. California's STAKE Act, Business & Professions Code section 22963, subdivision
6 (b)(1)(A), requires that, before enrolling a person as a customer or distributing or selling, or
7 engaging in the nonsale distribution of tobacco product, a remote seller of tobacco products must
8 attempt to match the name, address, and date of birth provided by the individual to information
9 contained in records in a database of individuals whose age has been verified to be 21 years or
10 older by reference to an appropriate database of government records kept by a distributor, a direct
11 marketing firm, or any other entity.

12 244. California's STAKE Act, Business & Professions Code section 22963, subdivision
13 (b)(1)(B), requires that, if a remote seller of tobacco products is unable to verify that a consumer
14 is 21 years of age or older based on matching the name, address, and date of birth provided by the
15 customer to information contained in records in a database of individuals whose age has been
16 verified to be 21 years or older by reference to an appropriate database of government records
17 kept by a distributor, a direct marketing firm, or any other entity, the remote seller must require
18 the consumer to submit an age-verification kit consisting of an attestation signed by the consumer
19 that he or she is 21 years of age or older and a copy of a valid form of government identification.

20 245. California's STAKE Act, Business & Professions Code section 22963, subdivision
21 (b)(3), requires that a remote seller of tobacco products make a telephone call after 5 p.m. to the
22 purchaser confirming the order prior to shipping the tobacco products.

23 246. California's STAKE Act, Business & Professions Code section 22963, subdivision
24 (b)(4), prohibits a remote seller of tobacco products from delivering tobacco products to any post
25 office box.

26 247. Since June 9, 2016, and continuing to the present, Defendants have engaged in, and
27 continue to engage in, the remote delivery sale, distribution, and nonsale distribution of tobacco
28

1 products to persons in California who were under 21 years of age at the time the remote delivery
2 sale, distribution, or nonsale distribution was made.

3 248. Since June 9, 2016, and continuing to the present, Defendants have engaged in the
4 remote delivery sale, distribution, and nonsale distribution of tobacco products to persons in
5 California without attempting to match the name, address, and date of birth provided by the
6 customer to information contained in an appropriate database of government records.

7 249. Since June 9, 2016, and continuing to the present, Defendants have engaged in the
8 remote delivery sale, distribution, and nonsale distribution of tobacco products to persons in
9 California who were not verified as 21 years of age or older by reference to an appropriate
10 database of government records and who did not submit an age attestation kit.

11 250. Since June 9, 2016, and continuing until approximately June 20, 2017, Defendants
12 did not make telephone calls to purchasers in California confirming the order prior to shipping the
13 tobacco products.

14 251. Since June 9, 2016, and continuing to the present, Defendants have caused tobacco
15 products to be delivered to post office boxes in California.

16 **THIRD CAUSE OF ACTION AGAINST JLI**
17 **(Violations of the Privacy Rights for California Minors in the Digital World Law)**
18 **(Bus. & Prof. Code § 22580)**

19 252. The People reallege all paragraphs set forth above and incorporate them by reference
20 as though they were fully set forth in this cause of action.

21 253. The Privacy Rights for California Minors in the Digital World, Business &
22 Professions Code section 22580, subdivision (b)(1), prohibits an operator of an internet web site
23 from marketing or advertising tobacco products or electronic cigarettes to a minor under 18 years
24 of age who resides in California if the marketing or advertising is specifically directed to that
25 minor based on information specific to that minor.

26 254. Defendants were “operators” under Business & Professions Code section 22580(f)
27 because they owned internet web sites including www.juul.com and www.juulvapor.com.
28

1 255. Defendants advertised and marketed JUUL products through email marketing and
2 advertising directly to email addresses associated with minors under age 18.

3 **FOURTH CAUSE OF ACTION AGAINST JLI**
4 **(Violations of the Delivery Sales Provisions of the Cigarette and Tobacco Products Tax**
5 **Law)**
6 **(Rev. & Tax. Code § 30101.7)**

7 256. The People reallege all paragraphs set forth above and incorporate them by reference
8 as though they were fully set forth in this cause of action.

9 257. Revenue and Taxation Code section § 30101.7 subsection (d)(2) requires that a
10 person engaged in the delivery sale of tobacco products to a person in California must obtain and
11 maintain any applicable license under Division 8.6 of the Business and Professions Code, as if the
12 delivery sales occurred entirely within this state.

13 258. California’s Cigarette and Tobacco Products Licensing Act of 2003, Business &
14 Professions Code section 22980.2, subdivision (a), prohibits a person or entity to engage in the
15 business of selling tobacco products in California without a valid license.

16 259. JUUL products are “tobacco products” within the meaning of Revenue and Taxation
17 Code section 30121(b) and (c).

18 260. From January 1, 2017 to August 20, 2019, Defendants engaged in the delivery sales
19 of tobacco products to persons in California without a California tobacco retailer license.

20 **FIFTH CAUSE OF ACTION AGAINST JLI, BOWEN, MONSEES, VALANI,**
21 **PRITZKER, AND HUH**
22 **(Public Nuisance)**
23 **(Civil Code § 3479, et seq.)**

24 261. The People reallege all paragraphs set forth above and incorporate them by reference
25 as though they were fully set forth in this cause of action.

26 262. Civil Code section 3479 provides that “[a]nything that is injurious to health ... or is
27 indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere
28 with the comfortable enjoyment of life or property ... is a nuisance.”

1 263. Civil Code section 3480 defines a “public nuisance” as “one which affects at the same
2 time an entire community or neighborhood, or any considerable number of persons, although the
3 extent of the annoyance or damage inflicted upon individuals may be unequal.”

4 264. Beginning on or around June 1, 2015, and continuing up to the present, Defendants
5 created a public nuisance in the State of California, including in the County of Los Angeles, by,
6 among other actions, creating a devastating public health epidemic of nicotine usage among the
7 youth of California. Defendants created, and continue to create, a condition that is harmful to
8 human health, harmful to the health of Californians, including the health of residents of the
9 County of Los Angeles, indecent and offensive to the senses, and obstructs the free use of
10 property and resources so as to interfere with the comfortable enjoyment of life in violation of
11 Civil Code sections 3479 and 3480.

12 265. The public nuisance, and resulting public health epidemic, caused by Defendants’
13 conduct, is a direct and proximate contributing cause of the injuries and harms sustained by the
14 State, the County of Los Angeles, and their citizens.

15 266. The public nuisance caused by Defendants’ actions is substantial and unreasonable.
16 Defendants’ actions caused and continue to cause the public nuisance, and the harms of that
17 public nuisance outweigh any offsetting benefits.

18 267. The Management Defendants participated in creating the public nuisance and
19 resulting public health epidemic in California.

20 268. Defendants knew or should have known that their marketing of their products was
21 false and misleading and that their deceptive marketing scheme and other unlawful, unfair, and
22 fraudulent actions would create or assist in the creation of the public nuisance.

23 269. Defendants knew that their products are tobacco products and contain nicotine, that
24 nicotine is highly addictive, and that it is illegal to sell or furnish tobacco products to underage
25 individuals. Even so, Defendants knowingly and actively marketed their products to youth.
26 Defendants had knowledge that underage individuals in California were using their products yet
27 Defendants did not take appropriate corrective or ameliorative actions. Defendants handed out
28 JUUL products to individuals at sampling events without providing any nicotine warning.

1 270. The Management Defendants were aware of and participated in the marketing of JLI
2 products to underage individuals.

3 271. The public nuisance created, perpetuated, and maintained by Defendants can be
4 abated and further reoccurrence of such harm and inconvenience can be prevented.

5 272. Defendants' conduct has affected and continues to affect a considerable number of
6 young people and others in Alameda County, the County of Los Angeles, and throughout the
7 State of California, including but not limited to:

8 a. Youth and others in California who have and continue to become addicted to
9 nicotine due to Defendants' products.

10 b. This addiction has caused, is causing, and will continue to cause physical,
11 sometimes fatal, harm, and mental harm, to those who are addicted and who use tobacco
12 products.

13 c. Addicted individuals will require unknown amounts of medical and
14 preventative care, in the future. This is worsened by the lack of approved tobacco cessation
15 products for underage individuals.

16 d. Public schools throughout California are suffering from increased absenteeism,
17 classroom disruptions, suspensions, loss of class time for students, increased nurse visits by
18 students, diversions of and losses of critical funding to school districts, and many other
19 harms and expenses directly due to Defendants' actions.

20 273. Defendants also created a public nuisance through the way in which they disposed of,
21 and encouraged consumers to dispose of, JUUL waste items, which includes JUUL devices, pods,
22 and chargers.

23 274. JUUL pods contain nicotine, which is an acutely hazardous waste. (Cal. Code Regs.
24 tit. 22, §§ 66260.10 and 66261.33; 40 C.F.R. § 261.33.) Nicotine is a toxic substance which can
25 be absorbed dermally and is "fatal to humans in low doses." (Management Standards for
26 Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, 84 Fed.
27 Reg. 5816, 5822 (Feb. 22, 2019); 40 C.F.R. § 261.11.) For this reason, transportation and
28 disposal of nicotine waste items is highly regulated. (California Hazardous Waste Control Law,

1 Health & Saf. Code, § 25100 et seq.) Even “empty” JUUL pods contain nicotine, as not all of the
2 liquid nicotine is aerosolized before replacement by the user. Furthermore, JUUL devices contain
3 lithium-ion batteries, which present a danger to public safety because they can self-ignite when
4 crushed, punctured, ripped, or dropped. Lithium-ion batteries are considered presumptively
5 hazardous under because of their corrosive, ignitable and reactive characteristics. (CCR, tit. 22,
6 Appendix X, item 420 Lithium, following section 66261.126.)

7 275. JLI contributed to the improper disposal of JUUL pods by telling customers both at
8 sampling events and on JLI’s website to throw away JUUL pods “in a regular trash can.” On
9 information and belief, JLI likewise facilitated the improper disposal of JUUL waste items by
10 failing to provide appropriate disposal options at locations in which JUUL products were used,
11 such as sampling events and JLI’s offices. On information and belief, JLI also improperly
12 handled and disposed of JUUL waste items, including devices, pods and chargers, which were
13 returned to JLI as defective. On information and belief, JLI also improperly handled and
14 disposed of JUUL waste items, prototypes, flavorants, nicotine, and other substances from test
15 facilities.

16 276. The consequences of Defendants’ conduct are not in the public interest.

17 277. Defendants, and each of them, are liable under California Civil Code sections 3479, et
18 seq. and Code of Civil Procedure section 731 for creating a public nuisance.

19 278. Defendants must abate the public nuisance caused by their conduct in marketing,
20 furnishing and selling their products to underage persons in California, including in the County of
21 Los Angeles. The People request an order from the Court providing for abatement of
22 Defendants’ ongoing and future violations of Civil Code sections 3479 and 3480. The People,
23 through the County Counsel and District Attorney, request abatement of the public nuisance
24 created by Defendants in the County of Los Angeles pursuant to Section 731 of the Code of Civil
25 Procedure.

26 **SIXTH CAUSE OF ACTION AGAINST JLI, BOWEN, MONSEES, VALANI,**
27 **PRITZKER, AND HUH**

28 **(False or Misleading Statements)**

(Bus. & Prof. Code § 17500)

279. The People reallege all paragraphs set forth above and incorporate them by reference as though they were fully set forth in this cause of action.

280. From a date unknown to the People and continuing to the present, JLI and the Management Defendants have engaged in and continue to engage in, aided and abetted and continue to aid and abet, and conspired to and continue to conspire to engage in acts or practices that constitute violations of Business and Professions Code section 17500 et seq., by making or causing to be made untrue or misleading statements with the intent to induce members of the public to purchase Defendants' JUUL products, as described in Paragraphs 1-278. JLI's and the Management Defendants' untrue or misleading representations additionally include, but are not limited to, the following:

a. JLI's and the Management Defendants' marketing and advertising misleadingly promotes JUUL as presenting a lower risk of tobacco-related disease or as a less harmful alternative to other tobacco products. Defendants have manufactured, distributed, sold and marketed tobacco products that are more potent in the delivery of nicotine than combustible cigarettes. Defendants' mission, as advertised on their website, is to improve the lives of the world's one billion adult smokers and to provide people with a product that will allow them to reduce or eliminate their cigarette consumption entirely. JUUL products, however, have not been approved by the Food and Drug Administration as a smoking cessation product or as a modified risk product.

b. Defendants falsely informed consumers and the public, including by statements on their website, that JUUL products did not contain formaldehyde. Despite knowledge of test results from their own product testing that JUUL products contained and produced formaldehyde, Defendants continued to make untrue and misleading statements about the production of formaldehyde.

c. JLI misled the public into believing that it could dispose of its nicotine-containing JUUL pods in a regular trash can, in violation of hazardous waste laws.

1 **SEVENTH CAUSE OF ACTION AGAINST JLI, BOWEN, MONSEES, VALANI,**
2 **PRITZKER, AND HUH**

3 **(Unlawful, Unfair, and Fraudulent Business Practices)**

4 **(Bus. & Prof. Code § 17200)**

5 281. The People reallege all paragraphs set forth above and incorporate them by reference
6 as though they were fully set forth in this cause of action.

7 282. From a date unknown to the People and continuing to the present, Defendants have
8 engaged, and continue to engage in, aided and abetted and continue to aid and abet, and conspired
9 and continue to conspire to, engage in unlawful, unfair, or fraudulent acts or practices, which
10 constitute unfair competition within the meaning of Section 17200 of the Business and
11 Professions Code, as described above. Defendants' acts or practices include, but are not limited
12 to, the following:

13 a. Violating Business and Professions Code section 22958 by selling,
14 distributing and furnishing tobacco products to persons under the age of 21;

15 b. Violating Health and Safety Code section 119405 by selling and providing
16 electronic cigarettes to persons under the age of 18;

17 c. Violating Business and Professions Code section 22963, subdivision (a), by
18 distributing tobacco products to persons under 21 years of age through the United
19 States Postal Service or through any other public or private postal or package delivery
20 service;

21 d. Violating Business and Professions Code section 22963, subdivisions
22 (b)(1)(A) and (B), by distributing tobacco products directly to consumers without
23 verifying that the person is 21 years old or older by checking name, date of birth, and
24 address in an appropriate government records database;

25 e. Violating Business and Professions Code section 22963, subdivision
26 (b)(1)(B), by distributing tobacco products directly to consumers who were not
27 verified as 21 years of age or older by reference to an appropriate database of
28 government records and who did not submit an age attestation kit;

1 f. Violating Business and Professions Code section 22963, subdivision (b)(3),
2 by failing to make a telephone call to the consumer after 5 p.m., as required for
3 remote sales of tobacco products;

4 g. Violating Business and Professions Code section 22963, subdivision (b)(4),
5 by delivering tobacco products to post office boxes; by making non-sale distributions
6 that were not delivered to the recipient's verified mailing address; and by making
7 sales that were delivered to addresses that did not match the purchaser's verified
8 billing address on the check or credit card used for payment;

9 h. Violating Business and Professions Code section 22580, subdivision (b)(1),
10 by directing marketing and advertising for tobacco products and/or electronic
11 cigarettes to persons under 18 years of age that Defendants had actual knowledge
12 were under the age of 18 years of age based on information specific to individual
13 minors;

14 i. Violating Taxation and Revenue Code section 30101.7, subdivision (d)(2),
15 by making delivery sales of tobacco products to consumers in California without
16 obtaining and maintaining applicable tobacco product licenses;

17 j. Violating Business and Professions Code section 22980.1, subdivision (b)(1)
18 by, dating from January 1, 2017, selling tobacco products to retailers in California who are
19 not are not licensed pursuant to the Cigarette and Tobacco Products Licensing Act of 2003;

20 k. Violating business and Professions Code section 22980.2, subdivision (a) by,
21 between January 1, 2017 and August 20, 2019, engaging in the retail sale of tobacco
22 products in California without a valid tobacco retail license;

23 l. Violating the Safe Drinking Water and Toxic Enforcement Act of 1986,
24 Health & Saf. Code, § 25249.6, commonly known as Proposition 65, by failing to
25 include required warnings about exposure to chemicals linked to cancer, birth defects,
26 or other reproductive harm;

- 1 m. Violating USPS Publication 52, “Hazardous, Restricted, and Perishable
2 Mail,” which is incorporated by reference in 39 C.F.R. § 113.2, by instructing
3 consumers to return opened and leaking JUUL pods to JLI via the U.S. Postal Service;
- 4 n. Violating Business and Professions Code section 17500 et seq., as alleged in
5 the Fifth Cause of Action;
- 6 o. Unfairly targeting underage youth through marketing campaigns on social
7 media, offering free products at events and in malls, sponsoring and engaging social
8 media influencers;
- 9 p. Unfairly targeting underage youth through marketing, making JUUL
10 products appear stylish, flavorful, and trendy, with the knowledge that youth would
11 likely start using these products; and
- 12 q. Unfairly targeting underage youth by marketing dessert and fruit flavors that
13 appealed to underage youth, such as mango, cool mint, creme brulee, and cucumber.

14 283. Each and every separate act constitutes an unlawful, unfair, and/or fraudulent
15 business practice. Each day that the Defendants engaged in each separate unlawful, unfair, and/or
16 fraudulent act, omission, or practice is a separate and distinct violation of Business and
17 Professions Code section 17200.

18 284. The Management Defendants personally engaged in unlawful and unfair conduct.
19 Bowen and Monsees intentionally designed a more addictive and youth-oriented product. The
20 Management Defendants were “more involved than most” about the future and direction of JLI.

- 21 a. By December 2015, the Executive Committee gave Pritzker and Huh
22 supervisory responsibility for JLI employees;
- 23 b. Valani was a regular presence in JLI’s offices;
- 24 c. The Management Defendants held enough seats to veto the youth-focused
25 Vaporized campaign, but instead approved the marketing to go forward;
- 26 d. The Management Defendants found the campaign to be too “youthful” but
27 still let the campaign proceed;
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- e. The Management Defendants had depth of experience in this industry, and therefore knew or should have known the parallels to traditional youth-focused cigarette advertising;
- f. Management Defendants were aware by June 2015 that there were early signs of teenage use but did not terminate the vaporized campaign, and Huh, Pritzker, and Valani “argued the company couldn’t be blamed for youth nicotine addiction.”

1 **PRAYER FOR RELIEF**

2 WHEREFORE, the People respectfully request that the Court enter judgment in favor of the
3 People and against all Defendants, jointly and severally, as follows:

4 1. That pursuant to Code of Civil Procedure section 3494 Defendants be ordered and
5 enjoined to abate the public nuisance that exists within the State of California;

6 2. That Defendants, their successors, agents, representatives, employees, assigns and all
7 persons who act in concert with Defendants be permanently or preliminarily enjoined from
8 making any untrue or misleading statements in violation of Business and Professions Code
9 section 17500, including, but not limited to, the untrue or misleading statements alleged in this
10 First Amended Complaint, under the authority of Business and Professions Code section 17535;

11 3. That Defendants, their successors, agents, representatives, employees, assigns and all
12 persons who act in concert with Defendants be permanently or preliminarily enjoined from
13 engaging in unfair competition as defined in Business and Professions Code section 17200,
14 including, but not limited to, the acts and practices alleged in this First Amended Complaint,
15 under the authority of Business and Professions Code section 17203;

16 4. That the Court make such orders or judgments as may be necessary, including
17 preliminary injunctive and ancillary relief, to prevent the use or employment by any Defendant of
18 any practice which violates Business and Professions Code section 17500, or which may be
19 necessary to restore to any person in interest any money or property, real or personal, which may
20 have been acquired by means of any such practice, under the authority of Business and
21 Professions Code section 17535;

22 5. That the Court make such orders or judgments as may be necessary, including
23 preliminary injunctive and ancillary relief, to prevent the use or employment by any Defendant of
24 any practice which constitutes unfair competition or as may be necessary to restore to any person
25 in interest any money or property, real or personal, which may have been acquired by means of
26 such unfair competition, under the authority of Business and Professions Code section 17203;

1 6. That the Court assess a civil penalty of up to \$2,500 against each Defendant for each
2 violation of Business and Professions Code section 17500, in an amount according to proof,
3 under the authority of Business and Professions Code section 17536;

4 7. That the Court assess a civil penalty of up to \$2,500 against each Defendant for each
5 violation of Business and Professions Code section 17200, in an amount according to proof,
6 under the authority of Business and Professions Code section 17206;

7 8. That the Court assess a civil penalty/fine against JLI for each violation of Business
8 and Professions Code section 22958 and Health and Safety Code section 119405 pursuant to the
9 schedules set forth in Business and Professions Code section 22958, subdivision (a)(1) and Health
10 and Safety Code section 119405, subdivision (c);

11 9. That the Court assess civil penalty against JLI for each violation of Business and
12 Professions Code section 22963 pursuant to the schedule of civil penalties in Business and
13 Professions Code section 22963, subdivision (f);

14 10. That the People recover their costs of suit, including costs of investigation and
15 reasonable attorneys' fees, under Code of Civil Procedure section 1021.8 and other provisions of
16 law;

17 11. That the People receive all other relief to which they are legally entitled; and

18 12. That the Court award such other relief that it deems just, proper, and equitable.

19
20 Dated: March 15, 2022

Respectfully Submitted,

21 ROB BONTA
Attorney General of California
22 RENU R. GEORGE
Senior Assistant Deputy Attorney General
23 NICHOLAS WELLINGTON
Supervising Deputy Attorney General

24 */s/ Nora Flum*

25 _____
NORA FLUM
26 Deputy Attorney General
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Dated: March 15, 2022

Respectfully Submitted,

RODRIGO A. CASTRO-SILVA
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/s/ Scott Kuhn

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Dated: March 15, 2022

Respectfully Submitted,

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County of Los Angeles, State of California

/s/ Hoon Chun

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