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5 Attorneys for Plaintiff
Public Interest Alliance LLC
6

ENDORSED
FILED
ALAMEDA COUNTY

MAY 20 2014

CLERK OF THE SUPERIOR COURT
BY **YOLANDA ESTRADA** deputy

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ALAMEDA
10 UNLIMITED CIVIL JURISDICTION
11

12 THE PUBLIC INTEREST ALLIANCE, LLC, a)
13 California limited liability company)

14 Plaintiff,)

15 vs.)

16 ACCESS BUSINESS GROUP LLC, et al.)

17 Defendants.)

) Case No. RG13697992

) ~~PROPOSED~~ JUDGMENT UNDER
) PROPOSITION 65 SETTLEMENT AND
) CONSENT JUDGMENT AS TO
) DEFENDANT TARTE, INC.

) Date: May 20, 2014
) Time: 2:30 p.m.
) Dept: 17
) Res'n No. 1498836

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19 Action Filed: October 3, 2013
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1 In the above-captioned action, plaintiff Public Interest Alliance LLC, and defendant Tarte, Inc.
2 (“Tarte”), having agreed through their respective counsel that Judgment be entered under the terms of
3 their settlement in the form of the proposed consent judgment attached hereto as Exhibit A (the “Tarte
4 Consent Judgment”), and following this Court’s entry of an Order approving the Tarte Consent
5 Judgment on May 20, 2014:

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, under Health & Safety Code
7 section 25249.7, subsection (f)(4), and Code of Civil Procedure section 664.6, judgment is entered in
8 accordance with the terms of the Tarte Consent Judgment attached hereto as Exhibit A and by this
9 reference incorporated herein. By stipulation of the parties, the Court will retain jurisdiction under
10 Code of Civil Procedure section 664.6 to enforce Section 4.1.1 and to resolve any disputes that may
11 arise hereafter between PIA and DHSI regarding the DHSI Consent Judgment.

12 **IT IS SO ORDERED:**

13 Dated: May 20, 2014

GEORGE C. HERNANDEZ, JR.

JUDGE, SUPERIOR COURT

EXHIBIT A

1 Jeffrey M. Judd (SBN 136358)
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8 Attorneys for Plaintiff
9 Public Interest Alliance LLC

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF ALAMEDA
12 UNLIMITED CIVIL JURISDICTION

13 THE PUBLIC INTEREST ALLIANCE, LLC, a
14 California limited liability company

15 Plaintiff,

16 vs.

17 ACCESS BUSINESS GROUP LLC, et al.

18 Defendants.

)) Case No. RG13697992

) [PROPOSED] CONSENT JUDGMENT

) (Cal. Health & Safety Code section 25249.6 *et*
) *seq.*)

19 1. INTRODUCTION

20 1.1 **Parties.** This Consent Judgment is entered into by and between plaintiff The Public
21 Interest Alliance LLC (“PIA”) and TARTE, INC. (“Tarte”), with PIA and Tarte collectively referred to
22 as the “Parties.”

23 1.2 **Public Interest Alliance LLC.** PIA is a California limited liability company dedicated
24 to improving human health, preserving the natural environment, and promoting compliance with
25 environmental and consumer disclosure laws..

26 1.3 **Tarte, Inc.** Tarte employs ten or more persons and is a “person in the course of doing
27 business” for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California

1 Health & Safety Code § 25249.6, *et seq.* (“Proposition 65”).

2 1.4 **General Allegations**

3 1.4.1 PIA alleges that Tarte manufactured, imported, sold and/or distributed for sale in
4 California, cosmetic and personal care powders that contain Titanium dioxide (“TiO₂”). PIA alleges
5 that during use, some TiO₂ is released into the air, exposing consumers to unbound TiO₂ particles of
6 respirable size without the health hazard warnings that Proposition 65 requires. A list of such product,
7 which are the subject of this Consent Judgment, is identified on Exhibit A attached hereto (the
8 “Covered Products”). TiO₂ is a chemical widely used as a whitening agent in a wide range of
9 consumer products, including, without limitation, paper, paints, printers’ inks, toothpaste, cosmetics,
10 and personal care products. In 2010, the International Agency for Research on Cancer (“IARC”)
11 issued Monograph 93, which concluded that TiO₂ is “possibly carcinogenic” to humans when inhaled.

12 1.4.2 Pursuant to Proposition 65, on September 2, 2011, California identified and
13 listed Titanium Dioxide (airborne, unbound chemicals of respirable size) as a chemical known to cause
14 cancer. Titanium Dioxide (airborne, unbound chemicals of respirable size) became subject to the
15 “clear and reasonable warning” requirements of the Act one year later on September 2, 2012. Cal.
16 Code Regs., Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b).

17 1.4.3 Titanium Dioxide (airborne, unbound chemicals of respirable size) is hereinafter
18 referred to as the “Listed Chemical.” PIA alleges that the Listed Chemical is released into the air when
19 the Covered Products are applied to the skin by brush, pad or sponge, leading to human exposures.

20 1.5 **Notice of Violation.** On or about June 21, 2013, PIA served Tarte and certain requisite
21 public enforcement agencies with Proposition 65 60-Day Notices of Violation and Proposition 65
22 Supplemental Notices of Violation (the “NOVs”) that provided the recipients with notice of alleged
23 violations of Proposition 65 based on the recipient’s alleged failure to warn customers and consumers,
24 workers and other individuals that the Products exposed users in California to the Listed Chemical. To
25 the best of the Parties’ knowledge, no public enforcer has commenced or is diligently prosecuting the
26 allegations set forth in the NOVs.

27 1.6 **Complaint.** On October 3, 2013, PIA filed a Complaint in the Superior Court in and
28

1 for the County of Alameda styled, *PIA v. Access Business Group, LLC, et al.*, Case No. RG13697992,
2 alleging violations of Proposition 65 arising from unwarned exposures to the Listed Chemical when
3 the Covered Products are used (the "Complaint"). On December 20, 2013, Tarte filed an Answer to
4 the Complaint containing a general denial and multiple affirmative defenses

5 1.7 **No Admission.** Tarte denies the material factual and legal allegations contained in the
6 NOV and Complaint and maintains that all products it has manufactured, imported, distributed, and/or
7 sold in California, including the Covered Product, have been and are in compliance with all laws.
8 Nothing in this Consent Judgment shall be construed as an admission by Tarte of any fact, finding,
9 conclusion, issue of law, or violation of law, nor shall compliance with this Consent Judgment
10 constitute or be construed as an admission by Tarte of any fact, finding, conclusion, issue of law, or
11 violation of law. This section shall not, however, diminish or otherwise affect Tarte's obligations,
12 responsibilities, and duties under this Consent Judgment.

13 1.8 **Consent to Jurisdiction.** For purposes of this Consent Judgment only, the Parties
14 stipulate that this Court has jurisdiction over Tarte as to the allegations contained in the Complaint,
15 that venue is proper in the County of Alameda, and that this Court has jurisdiction to enter and enforce
16 the provisions of this Consent Judgment pursuant to Proposition 65 and California Code of Civil
17 Procedure § 664.6.

18 2. **DEFINITIONS**

19 2.1 **California Customers.** "California Customer" shall mean any customer that Tarte
20 reasonably understands is located in California, has a California warehouse or distribution center,
21 maintains a retail outlet in California or has made any internet sales into California between September
22 2, 2012, and the Effective Date, inclusive.

23 2.2 **Effective Date.** "Effective Date" shall mean April _____, 2014.

24 2.3 **Reformulated Products.** "Reformulated Products" shall mean Covered Products that
25 contain no Titanium Dioxide that is or may become unbound, airborne, and of respirable size before or
26 during application of the product that would otherwise require a warning under Proposition 65.

27 2.4 **Retailer.** "Retailer" means a Tarte authorized entity or person that offers a Product for
28

1 retail sale to consumers in the State of California.

2 3. **COVENANTS IN LIEU OF INJUNCTION**

3 3.1 **Reformulation Covenant.** Commencing on the Effective Date, Tarte shall not
4 distribute or sell to California Customers, manufacture or import for distribution or sale to California
5 Customers or cause to be manufactured or imported for distribution or sale to California Customers,
6 any Covered Products that are not Reformulated Products or unless and until Tarte complies with the
7 provisions of Paragraph 3.6., below (Product Warnings) (the "Reformulation Covenant").

8 3.2 **Vendor Notification/Certification.** No later than sixty (60) days after the Effective
9 Date, Tarte shall provide written notice, to all of its then-current Tarte authorized vendors of each of
10 the Covered Products that do not meet the Reformulated Product standards, if any, instructing each
11 such vendor to provide Tarte with only Covered Products that are Reformulated Products. In
12 addressing the obligation set forth in the preceding sentence, Tarte shall not employ or imply
13 statements or other communication that will or reasonably likely may encourage a vendor to delay
14 compliance with Tarte's Reformulation Covenant. For each vendor that sells a Covered Product that
15 does not meet the Reformulated Products standards, if any, Tarte shall demand and obtain written
16 certification from such vendors of Covered Products that do not meet the Reformulated Products
17 standards and any newly engaged vendors of Covered Products that do not meet the Reformulated
18 Products standards, of the date that the Covered Products manufactured by such vendors are in
19 compliance with the Reformulation Covenant. Certifications shall be held by Tarte for at least two
20 years after their receipt, and shall be made available to PIA upon written request, but in no event on
21 less than 30 days' notice.

22 3.3 **Representation Regarding Product Exemption**

23 PIA and its counsel, acknowledge that Tarte has provided PIA and its counsel with evidence
24 supporting the conclusion that the Covered Products were not sold by Tarte without the allegedly
25 requisite warnings after September 2, 2012. To Tarte's best knowledge, as of the Effective Date no
26 Tarte-authorized Retailers have any Covered Products remaining in inventory for sale to consumers.

27 3.4 **Current Inventory.** Commencing on the Effective Date, Tarte shall not sell or

1 4. MONETARY PAYMENTS

2 4.1 Civil Penalties Pursuant to Health & Safety Code § 25249.7(b). In settlement of all
3 the claims referred to in this Consent Judgment, Tarte shall pay a civil penalty in the amount of Zero
4 Dollars (\$0.00) in accordance with this Section. The penalty payment will be allocated in accordance
5 with California Health & Safety Code § 25249.12(c)(1) and (d), with seventy-five percent (75%) of the
6 funds remitted to the California Office of Environmental Health Hazard Assessment (“OEHHHA”) and
7 the remaining 25% of the penalty remitted to “Judd Law Group LLP in Trust for Public Interest
8 Alliance LLC.” All penalty payments shall be made within five (5) business days after this Consent
9 Judgment has been approved by the Court, and delivered to the addresses listed in Section 4.3 below.
10 Any failure by Tarte to deliver the required civil penalty payments to either OEHHHA or Judd Law
11 Group LLP within two business days of the required date, absent force majeure, shall result in
12 imposition of a 10% simple interest assessment on the undelivered payment(s) until delivery.

13 4.1.1 **Additional Penalty For Unreasonably Incorrect Representation Of Sales**

14 **Data.** Tarte understands that the sales data it provided to PIA was a material factor upon which PIA
15 has relied to determine the amount of civil penalties assessed pursuant to Health & Safety Code §
16 25249.7 in this Consent Judgment. After a reasonable inquiry and diligent review, Tarte represents, to
17 the best of its knowledge, that the sales data provided by it to PIA are full and complete, and are a true
18 and accurate reflection of sales of the Covered Products in California during the relevant period. If,
19 within nine months after the Effective Date, PIA discovers and presents to Tarte evidence that prior to
20 execution of this Consent Judgment the Covered Products were distributed by Tarte to Tarte authorized
21 Retailers, in or who sell in California, in or who sell in California, in sales volumes materially different
22 than those identified by Tarte prior to execution of this Consent Judgment, then Tarte shall be liable for
23 an additional penalty amount as well as additional attorney fees expended by PIA in the public interest.
24 In the event PIA believes there is evidence that any of the Covered Products have been distributed by
25 Tarte to Tarte authorized Retailers, in or who sell in California, in sales volumes materially different
26 than those identified by Tarte, PIA shall provide Tarte with a written notice of the discrepancy. Tarte
27 shall have 15 days to attempt to respond to the alleged discrepancy. PIA shall then provide Tarte with

1 delivered directly to OEHHA (Memo line "Prop 65 Penalties") at one of the following addresses, as
2 appropriate:

3 United States Postal Service Delivery: Fiscal Operations Branch Chief
4 Office of Environ'tal Health Hazard Assessment
5 P.O. Box 4010
6 Sacramento, CA 95812-4010

7 Non-United States Postal Service Delivery: Fiscal Operations Branch Chief
8 Office of Environ'tal Health Hazard Assessment
9 1001 I Street
10 Sacramento, CA 95814

11 4.3.2 **Proof of Payment to OEHHA.** A copy of each check payable to OEHHA shall
12 be mailed, simultaneous with payment, to Judd Law Group LLP at the address set forth in Section
13 4.3.1(a) above, as proof of payment to OEHHA.

14 4.3.3 **Tax Documentation.** Tarte shall issue a separate 1099 form for each payment
15 required by this Section to: (a) PIA (EIN 46-3826361), to the address set forth in Section 4.3.1(a)
16 above; (b) OEHHA, who shall be identified as "California Office of Environmental Health Hazard
17 Assessment" (EIN 68-0284486) in the 1099 form, to be delivered directly to OEHHA, P.O. Box 4010,
18 Sacramento, CA 95814, and (c) "Judd Law Group LLP" (EIN: 90-0789749) to the address set forth in
19 Section 4.3.1(a) above.

20 5. **CLAIMS COVERED AND RELEASED**

21 5.1 **PIA's Release of Proposition 65 Claims.** PIA, acting on his own behalf and in the
22 public interest, releases Tarte, its parents, subsidiaries, directors, officers, successors, attorneys, and
23 each entity to whom Tarte directly or indirectly distributed or sold Covered Products, including, but
24 not limited, to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative
25 members, successors, and licensees (collectively, "Releasees"), from all claims for violations of
26 Proposition 65 through the Effective Date based on unwarned exposures to the Listed Chemicals in the
27 Covered Products, as alleged in the NOV and Complaint. Compliance with the terms of this Consent
28 Judgment constitutes compliance with Proposition 65 with respect to exposures to the Listed
Chemicals from the Covered Products, as set forth in the NOVs. The Parties further understand and
agree that this Section 5.1 release shall not extend upstream to any entities, other than affiliates of

1 Tarte, LLC dba The Tarte Company.

2 Moreover, PIA, acting on its own behalf only provides a general release herein which shall be effective
3 as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses,
4 attorneys' fees, damages, losses, claims, liabilities, and demands of PIA of any nature, character or kind, known
5 or unknown, suspected or unsuspected, arising out of the subject matter of this dispute. PIA acknowledges that
6 it is familiar with Section 1542 of the California Civil Code, which provides as follows:

7 A general release does not extend to claims which the creditor does not know or
8 suspect to exist in his or her favor at the time of executing the release, which if
9 known by him or her must have materially affected his or her settlement with
the debtor.

10 PIA, acting on its own behalf, expressly waives and relinquishes any and all rights and benefits which it
11 may have under, or which may be conferred on it by the provisions of Section 1542 of the California Civil Code
12 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent
13 that it may lawfully waive such rights or benefits pertaining to the released matters.

14 5.2 **Tarte's Release of PIA.** Tarte, on behalf of itself, its past and current agents, representatives,
15 attorneys, successors, and assignees, hereby waives any and all claims against PIA and its attorneys and other
16 representatives, for any and all actions taken or statements made (or those that could have been taken or made)
17 by PIA and its attorneys and other representatives, whether in the course of investigating claims or otherwise
18 seeking to enforce Proposition 65 against it in this matter with respect to the Covered Products.

19 Moreover, Tarte, acting on its own behalf only provides a general release herein which shall be effective
20 as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses,
21 attorneys' fees, damages, losses, claims, liabilities, and demands of Tarte of any nature, character or kind,
22 known or unknown, suspected or unsuspected, arising out of the subject matter of this dispute Tarte
23 acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

24 A general release does not extend to claims which the creditor does not know or
25 suspect to exist in his or her favor at the time of executing the release, which if
known by him or her must have materially affected his or her settlement with
the debtor.

26 Tarte, acting on its own behalf, expressly waives and relinquishes any and all rights and benefits which
27 it may have under, or which may be conferred on it by the provisions of Section 1542 of the California Civil

1 effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations,
2 costs, expenses, attorneys' fees, damages, losses, claims, liabilities, and demands of PIA of any nature,
3 character or kind, known or unknown, suspected or unsuspected, arising out of the subject matter of
4 this dispute. PIA acknowledges that it is familiar with Section 1542 of the California Civil Code,
5 which provides as follows:

6 A general release does not extend to claims which the creditor does not
7 know or suspect to exist in his or her favor at the time of executing the
8 release, which if known by him or her must have materially affected his
9 or her settlement with the debtor.

10 PIA, acting on its own behalf, expressly waives and relinquishes any and all rights and benefits
11 which it may have under, or which may be conferred on it by the provisions of Section 1542 of the
12 California Civil Code as well as under any other state or federal statute or common law principle of
13 similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the
14 released matters.

15 5.2 **Tarte's Release of PIA.** Tarte, on behalf of itself, its past and current agents,
16 representatives, attorneys, successors, and assignees, hereby waives any and all claims against PIA and
17 its attorneys and other representatives, for any and all actions taken or statements made (or those that
18 could have been taken or made) by PIA and its attorneys and other representatives, whether in the
19 course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter
20 with respect to the Covered Products.

21 Moreover, Tarte, acting on its own behalf only provides a general release herein which shall be
22 effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations,
23 costs, expenses, attorneys' fees, damages, losses, claims, liabilities, and demands of Tarte of any
24 nature, character or kind, known or unknown, suspected or unsuspected, arising out of the subject
25 matter of this dispute. Tarte acknowledges that it is familiar with Section 1542 of the California Civil
26 Code, which provides as follows:

27 A general release does not extend to claims which the creditor does not
28 know or suspect to exist in his or her favor at the time of executing the
release, which if known by him or her must have materially affected his
or her settlement with the debtor.

1 Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest
2 extent that it may lawfully waive such rights or benefits pertaining to the released matters.

3 6. **PRESERVATION OF COMPETITIVENESS.** The intent of this section 6 is to protect the
4 competitive interests of Tarte arising from PIA’s claims and to ensure that by settling the allegations in
5 the NOV and the Complaint, Tarte is not disadvantaged with respect to its competitors. Specifically,
6 the parties agree that should any agreement or consent judgment be entered into by PIA, the California
7 Office of Environmental Health Hazard Assessment, or the California Attorney General’s Office
8 concerning personal care products similar to the Covered Products that contains provisions that would
9 materially impact the terms of this Agreement, such benefits shall accrue to Tarte and this Agreement
10 shall be amended by a stipulation and proposed order, a copy of which shall be provided to the
11 Attorney General’s office at least five (5) business days prior to submission to the Court to provide
12 Tarte the benefit thereof. Further, should there be a court decision involving any other person or entity
13 that received a Proposition 65 60-Day Notice of Violation alleging Titanium Dioxide in personal care
14 products similar to the Covered Products and such decision is in whole or in part favorable to the
15 defendant(s) in such action, then that decision shall be incorporated into this Agreement by a
16 stipulation and proposed order, a copy of which shall be provided to the Attorney General’s office at
17 least five (5) business days prior to submission to the Court. Further, should any consent judgment
18 establish a “No Significant Risk Level” for Titanium Dioxide (airborne, unbound particles of
19 respirable size) and provide for other parties to opt-in, any payments Tarte has made pursuant to this
20 Agreement shall be offset against any opt-in payment requirements of such consent judgment. Should
21 PIA in the future become aware of facts or circumstances that have not been publicly disclosed that, in
22 PIA’s opinion affect Tarte’s competitiveness, it shall so notify Tarte’s counsel by email within forty-
23 five (45) days after PIA becomes aware of such non-public facts or circumstances. PIA shall prepare
24 all such stipulations and proposed orders, at PIA’s sole expense, and shall make reasonable efforts to
25 obtain the parties’ signatures thereto.

26 7. **COURT APPROVAL.** This Consent Judgment is not effective until it is approved and
27 entered by the Court and shall be null and void if, for any reason, it is not approved and entered by the

1 Court within one year after it has been fully executed by all Parties. If the Court does not approve the
2 Consent Judgment, the Parties shall meet and confer as to whether to modify the language or appeal
3 the ruling. If the Parties do not jointly agree on a course of action to take, then the case shall proceed
4 in its normal course on the Court's trial calendar. If the Court's approval is ultimately overturned by
5 an appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
6 Judgment. If the Parties do not jointly agree on a course of action to take, then the case shall proceed
7 in its normal course on the Court's trial calendar.

8 8. **SEVERABILITY**. If, subsequent to the Court's approval and entry of this Consent Judgment,
9 any of the provisions of this Consent Judgment are held by a court to be unenforceable, the validity of
10 the enforceable provisions remaining shall not be adversely affected.

11 9. **GOVERNING LAW**. The terms of this Consent Judgment shall be governed by the laws of
12 the State of California. In the event that Proposition 65 is repealed, preempted, or is otherwise
13 rendered inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment
14 are rendered inapplicable or are no longer required as a result of any such repeal or preemption, or
15 rendered inapplicable by reason of law generally as to the Covered Products, then Tarte may make a
16 formally noticed motion to this Court for relief from this Agreement or provisions of this Agreement,
17 with the requisite written notice to PIA, and shall only have no further obligations pursuant to this
18 Consent Judgment to the extent of any Court order so excusing or eliminating such obligation.
19 Nothing in this Consent Judgment shall be interpreted to relieve Tarte from any obligation to comply
20 with any pertinent state or federal law or regulation.

21 10. **NOTICES**. Unless specified herein, all correspondence and notices required to be provided
22 pursuant to this Consent Judgment shall be in writing and sent by: (i) personal delivery, (ii) first-class
23 registered or certified mail, return receipt requested; or (iii) overnight courier to any party by the other
24 party at the following addresses:

25 To Tarte:

26 Scott McDonough
27 TARTE, INC.
28 53 West 36th Street
NY NY 10018

To PIA:

Public Interest Alliance, LLC
c/o Jeffrey M. Judd
222 Sutter Street, Suite 600
San Francisco, CA 94108

1 With a copy to: Jonathan C. Sandler
Brownstein Hyatt Farber Schreck LLP
2 2049 Century Park East, Suite 3550
Los Angeles, CA 90067

3 Any Party, from time to time, may specify in writing to the other Party a change of notice address.

4 11. **COUNTERPARTS; SIGNATURES.** This Consent Judgment may be executed in counterparts and by
5 facsimile or pdf signature, each of which shall be deemed an original, and all of which, when taken together,
6 shall constitute one and the same document. A facsimile or pdf signature shall be as valid as the original.

7 12. **COMPLIANCE WITH H&S CODE § 25249.7(f).** PIA shall comply with H&S Code § 25249.7(f).

8 13. **POST EXECUTION.** PIA and Tarte each agrees to mutually employ its best efforts to support the
9 entry of this agreement as a Consent Judgment and obtain approval of the Consent Judgment by the Court in a
10 timely manner. The parties acknowledge that, pursuant to H&S § 25249.7, a noticed motion is required to obtain
11 judicial approval of this Consent Judgment, which PIA shall draft and file, and Tarte shall join. If any third
12 party objection to the noticed motion is filed, PIA and Tarte shall work together to file a joint reply and appear
13 at any hearing before the Court. The Court shall maintain jurisdiction under CCP § 664.6 and, if after entry of a
14 Consent Judgment, either party determines that the other is in breach of this Consent Judgment, such party shall
15 provide to the other written notice of such alleged breach pursuant to Section 10, above, and the noticed party
16 shall thereafter have thirty (30) days within which to attempt to cure or otherwise resolve the alleged breach (the
17 "Cure Period"). If the alleged breach is not resolved or cured to the reasonable satisfaction of the noticing party
18 during the Cure Period, the noticing party may thereafter bring a noticed motion to have the Court resolve the
19 dispute by order, including, as applicable, an order awarding the prevailing party reasonable attorney fees and
20 costs incurred in connection with the motion. This provision is a material component of the Consent Judgment
21 and shall be treated as such in the event of a breach. If a third party timely appeals the Consent Judgment and
22 the Consent Judgment is overturned by the Court of Appeal, then, within 15 calendar days of remittitur, all
23 payments made pursuant to this Consent Judgment will be returned to counsel for Tarte.

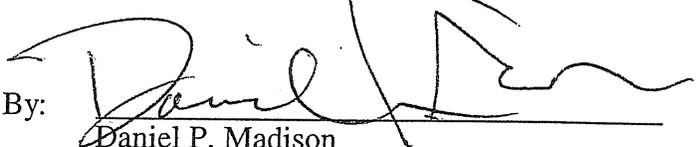
24 14. **MODIFICATION.** This Consent Judgment may be modified only: (1) by written agreement of the
25 Parties and upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion of
26 any party and entry of a modified Consent Judgment by the Court.

27 15. **AUTHORIZATION.** The undersigned are authorized to execute this Consent Judgment on

1 behalf of their respective parties and have read, understood, and agree to all of the terms and
2 conditions of this Consent Judgment. Each party acknowledges that it has consulted with and has had
3 the advice of legal counsel. Each party executes this agreement and Consent Judgment voluntarily and
4 with full knowledge of its significance, and with the express intention of effecting the extinguishment
5 of any and all obligations, liabilities, or claims arising out of the matters, claims, and controversies
6 specified herein. The persons executing this agreement represent and warrant that they have all
7 necessary and proper legal authority to execute this agreement on behalf of the parties to this Consent
8 Judgment.

9 Dated: March 17, 2014

PUBLIC INTEREST ALLIANCE LLC

10
11 By: 
12 Daniel P. Madison
Managing Member

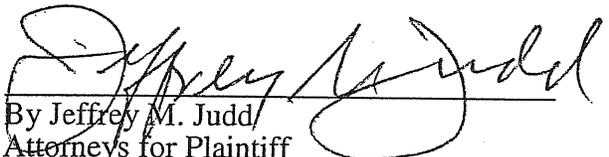
13 Dated: March __, 2014

TARTE, INC.

14
15 By: _____
16 Scott McDonough
General Manager

17
18 Approved as to form:

JUDD LAW GROUP LLP

19
20 
21 By Jeffrey M. Judd
Attorneys for Plaintiff

Dated: March 14, 2014

22 PUBLIC INTEREST ALLIANCE LLC

23 Approved as to form:

24 BROWNSTEIN HYATT FARBER SCHRECK, LLP

25
26 By Jonathan C. Sandler
Attorneys for Defendant
27 TARTE, INC.

Dated: March __, 2014

1 behalf of their respective parties and have read, understood, and agree to all of the terms and
2 conditions of this Consent Judgment. Each party acknowledges that it has consulted with and has had
3 the advice of legal counsel. Each party executes this agreement and Consent Judgment voluntarily and
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6 specified herein. The persons executing this agreement represent and warrant that they have all
7 necessary and proper legal authority to execute this agreement on behalf of the parties to this Consent
8 Judgment.

9 Dated: March __, 2014

PUBLIC INTEREST ALLIANCE LLC

11 By:

12 Daniel P. Madison
Managing Member

13 Dated: March __, 2014

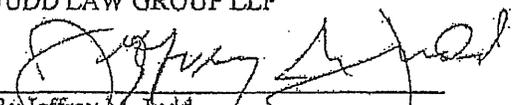
TARTE, INC.

15 By:

16 
Scott McDonough
General Manager

17 Approved as to form:

18 JUDD LAW GROUP LLP

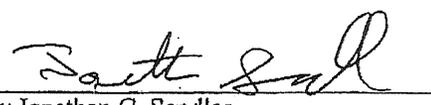
19 
20 By Jeffrey M. Judd
Attorneys for Plaintiff

21 PUBLIC INTEREST ALLIANCE LLC

Dated: March 14, 2014

22 Approved as to form:

23 BROWNSTEIN HYATT FARBER SCHRECK, LLP

24 
25 By Jonathan C. Sandler
Attorneys for Defendant

26 TARTE, INC.

Dated: March 18, 2014

EXHIBIT A

TO [Proposed] CONSENT JUDGMENT BETWEEN
THE PUBLIC INTEREST ALLIANCE, LLC AND TARTE, INC.
CASE NO. RG13697992

Covered Products

Tarte Provocateur Minder Pressed Powder SPF 8