

STATE OF NORTH CAROLINA
DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.

STATE OF NORTH CAROLINA, ex rel.)
JOSHUA H. STEIN,)
Attorney General,)
)
Plaintiff,)
)
v.)
)
ADAM BOWEN, HOYOUNG HUH,)
JAMES MONSEES, NICHOLAS)
PRITZKER, and RIAZ VALANI)
)
Defendants.)

COMPLAINT
JURY TRIAL DEMANDED
FILED UNDER SEAL AND *IN*
CAMERA
DO NOT ENTER ON PUBLIC
DOCKET OR PLACE IN PRESS
BOX

Plaintiff, the State of North Carolina, by and through its Attorney General, Joshua H. Stein, brings this action against Defendants Adam Bowen, James Monsees, Nicholas Pritzker, Hoyoung Huh, and Riaz Valani (collectively, “Defendants”) pursuant to the North Carolina Unfair or Deceptive Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et seq.* In support of its Complaint, Plaintiff alleges as follows:

INTRODUCTION AND SUMMARY

Defendants oversaw the development, marketing, and sale of high-nicotine e-cigarette products that started a youth e-cigarette epidemic in North Carolina. They developed, marketed, and sold the JUUL product, with its highly addictive properties, in a manner that attracted young people, including underage youth. Defendants were aware, before the product launched, that it would attract young

people. And after the product launched, Defendants received confirmation of what they already knew—that their cool and flashy flavored e-cigarette device was hooking a new generation of young users on nicotine. Defendants profited handsomely, ransoming the health of a new generation of North Carolinian children.

E-cigarettes are not safe. The nicotine in e-cigarettes is highly addictive. A person’s tolerance for nicotine increases with the amount of nicotine consumed. This leads people to require higher and higher doses to experience the same initial effects. In addition, people who consume nicotine and then suddenly stop experience a range of harmful withdrawal symptoms. As a result, nicotine is one of the hardest dependencies to break.

The effects of nicotine are even more acute in youth. Research shows that e-cigarettes are an “on-ramp” to smoking traditional cigarettes, with adolescents who use e-cigarettes more likely to move on to combustible tobacco products. Studies show that youth who use e-cigarettes are as much as four times more likely to then go on to use cigarettes, putting them at risk for the same smoking-related illnesses and costs associated with cigarette use.

For decades, the tobacco industry traditionally promoted cigarettes as a gateway to a cool, glamorous, and even healthy lifestyle. Tobacco companies recognized that luring a younger generation to try—and ultimately become dependent on—cigarettes was essential to drive sustained corporate growth. As a result, much of their marketing and sales tactics were geared toward attracting

youth, by marketing cigarettes as stylish accessories to individuals who led enviably cool lifestyles and portraying cigarette use as a way to project independence and seem cool to their peers.

Eventually, the truth came out about tobacco's dangers and that the companies had intentionally marketed these dangerous products to children. A wave of litigation resulted, culminating in court-ordered restrictions on tobacco marketing and a public health offensive that led to one of the biggest public health victories of the 21st century. By 2019, only 8.3% of high school students in North Carolina reported using cigarettes in the previous 30 days.

Defendants took advantage of this void and followed Big Tobacco's playbook by designing the look of the device, the flavors, and the chemical composition of the e-liquids to appeal to youthful users. Defendants developed, marketed, and sold e-cigarettes in dessert- and fruit-like flavors including crème brulee and mango, which appealed to youthful non-smokers. Defendants designed the device to be sleek and easily concealable in ways that would make the JUUL cool to look at and easy to hide from teachers and parents. Defendants manipulated the chemical content of the e-liquid so that the vapor would pack a huge nicotine punch while lacking harshness, making it more attractive—and addictive—for youth. And, in a technological gambit to even improve on Big Tobacco's playbook, Defendants introduced a "Party Mode" game on the device to resemble [REDACTED] [REDACTED]" which would allow youth to play games with the JUUL device both by themselves and with each other.

Defendants followed Big Tobacco’s playbook in the way JUUL was marketed to young users. Defendants were aware that one of the reasons why combustible cigarettes were so popular among youth was because tobacco companies projected the image that cigarette use was cool and enviable. Defendants leveraged the viral nature of social media to target a youthful audience: They developed and sanctioned the use of social media platforms and marketing channels that are known to be attractive to youth, used models who look like teenagers or very young adults in settings and poses that exuded an air of coolness and rebellion, and sought out and paid sponsors and influencers popular among young people and youth to spread the popularity of JUUL’s youth-focused brand identity among the young. And even when Defendants professed concern over the youth-focused nature of JUUL’s advertising, that handwringing was mere bluster. They did not meaningfully modify their marketing practices. Instead, they made only cosmetic changes while retaining and capitalizing on the viral marketing gains they had already made.

After creating an e-cigarette that appealed to underage youth and marketing that product in a way that attracted these youth, Defendants pursued a sales strategy with a strong emphasis on internet-based sales. By selling its products online, the company relied on age-verification techniques that Defendants knew were ineffective. And even in the face of that evidence, Defendants were reluctant to modify their procedures because they wanted to avoid creating “████████” with consumers. In some instances, Defendants allowed and encouraged JUUL’s management to direct employees to actively avoid “████████████████████” to prevent

underage users from purchasing JUUL products. And Defendants were aware that youth were accessing their products—parents complained to JUUL that their underage children were accessing and using JUUL e-cigarettes. Because of Defendants’ willfully blind approach to age verification, North Carolina underage users have easily obtained JUUL products, often simply by ordering them online.

Defendants have also routinely understated the strength of the nicotine in the JUUL products and downplayed the products’ health risks. Defendants deceived consumers about the products’ nicotine strength, misrepresented the nicotine equivalence of JUUL’s products to traditional cigarettes, and understated the risks of dependence that occur with such powerful levels of nicotine. In addition, Defendants falsely asserted that the products are FDA-approved cessation devices.

The prominence of JUUL use among teenagers didn’t happen accidentally. It was the result of Defendants’ conscious decisions to design and market their product in a manner that was historically shown to attract young people, including underage youth. The people running the company—Defendants—were no ordinary board members and C-level executives. The named Defendants were actively involved, day-to-day, with the company’s product development and marketing decisions.

For example, their activities included, but were not limited to, the following:

Defendant Bowen

- was heavily involved in developing and naming the dessert flavors JUUL created, including “Cool Mint,” which eventually became very

popular among youth, [REDACTED]
[REDACTED];

- designed the chemical composition of the e-liquid to have a particularly potent nicotine kick;
- designed the chemical composition of the e-liquid to minimize the harshness of the vapor for new users;
- developed the sleek, contemporary design for JUUL that resembled a USB device;
- created JUUL’s “Party Mode,” which was a “[REDACTED]” similar to the popular video game “[REDACTED]” that caused the JUUL to light up in multicolored patterns and designs;
- reviewed, approved, and sanctioned the images used in the marketing campaigns, including the Vaporized campaign, that featured youthful models exuding cool; and
- directed the company’s marketing team to expand and aggressively pursue JUUL’s influencer campaign, featuring personalities popular among youth.

Defendant Monsees

- spearheaded efforts to hire former tobacco executives and researchers to assist with the development and marketing of JUUL;
- developed the sleek, contemporary design for JUUL that resembled a USB device;

- shaped the product’s appearance at all levels, including demanding that he personally approved all JUUL packaging;
- relied on internal documents from tobacco companies to model development and marketing strategies for the JUUL product;
- reviewed, approved, and sanctioned the images used in the marketing campaigns, including the Vaporized campaign, that featured youthful models exuding cool;
- stated that the Vaporized campaign had made JUUL “the fastest growing e-cigarette company in the world, which is pretty awesome”;
- ignored confirmation that underage users were attracted to the JUUL product, claiming that they were merely a “distraction”;
- directed the company’s marketing team to expand and aggressively pursue JUUL’s influencer campaign, featuring personalities popular among youth; and
- claimed—without FDA authorization—that the JUUL product was useful for cessation.

Defendant Pritzker

- was on the Executive Committee of the Board that provided “more consistent and focused direction to the company” and directly oversaw all senior executives for an extended period of time;
- personally managed employees onsite three or four days each week;

- reviewed, approved, and sanctioned the images used in the marketing campaigns, including the Vaporized campaign, that featured youthful models exuding cool;
- edited, reviewed, and approved advertising copy;
- dismissed feedback that JUUL’s advertising was too attractive to youth as [REDACTED];
- ignored fellow Board members when they informed him that underage use of JUUL was a significant concern;
- in the face of incontrovertible evidence that underage individuals were using and attracted to JUUL, wanted to leverage user-generated content that was created by young people or attractive to young people to create more “[REDACTED]”;
- directed the company’s marketing team to expand and aggressively pursue JUUL’s influencer campaign, featuring personalities popular among youth;
- as late as 2018, was informed that JUUL “[REDACTED],” and failed to change the company’s marketing practices; and
- controlled the company’s media strategy promoting JUUL’s supposed youth prevention efforts, even after privately acknowledging that they were woefully inadequate.

Defendant Huh

- served as Executive Chairman on the Executive Committee of the Board that provided “more consistent and focused direction to the company” and directly oversaw all senior executives for an extended period of time. As Executive Chairman, Defendant Huh “ma[d]e decisions on behalf of” the Executive Committee;
- personally managed employees onsite three or four days each week;
- in the face of evidence that JUUL’s product was attracting underage users, argued that the company “couldn’t be blamed for youth nicotine addiction”; and
- personally reviewed and edited the brand and collateral positioning of JUUL’s marketing.

In the end, Defendants were aware that the JUUL product would attract youth. And when Defendants received confirmation that JUUL’s sleek design, the child-friendly flavors, the aggressive social media marketing campaign targeting very young people on channels attractive to youth, and the company’s lax age-verification procedures were, indeed, hooking children, Defendants did nothing. Defendants did not change the product design. Defendants did not stop marketing flavors like mango, mint, and fruit—which were all used by children. Defendants did not stop advertising the product using youthful models and influencers popular among youth on channels like Instagram. Defendants did not strengthen JUUL’s age-verification procedures. Only after regulatory and public pressure grew too

fierce to withstand did Defendants do *anything* to attempt to remedy their harmful conduct. But by then it was too late for millions of American youth who had become dependent on nicotine.

Defendants have played a central role in fostering the epidemic of e-cigarette use among youth in North Carolina. The JUUL brand name is so well-known that it has become a verb (*i.e.*, “Juuling,’ also known as ‘vaping,’” means to use an e-cigarette). Teens aged 15 to 17 are far *more* likely to use JUUL than are JUUL’s supposed target demographic of 25-to 34-year-olds. JUUL’s popularity among teens is the predictable result of Defendants’ youth-focused business strategy, which drove the development and design of JUUL’s products, the ways in which they were marketed, and their methods of delivery.

Defendants’ actions—designing, marketing, and selling JUUL e-cigarettes in ways that attracted youth and deceptively downplayed the potency and danger of the nicotine in the JUUL e-cigarettes—are unfair, deceptive, and illegal under North Carolina law. Defendants have harmed consumers throughout the State. The Attorney General brings this action to hold Defendants accountable for their wrongful actions.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, the State of North Carolina, acting on relation of its Attorney General, Joshua H. Stein, brings this action pursuant to Chapter 75 of the North Carolina General Statutes. The Attorney General is charged, among other things, with enforcing North Carolina’s Unfair or Deceptive Practices Act, N.C. Gen. Stat.

§§ 75-1.1, *et seq.*, on behalf of the State and is authorized to bring this action under his constitutional, statutory, and common-law authority to protect the health and well-being of the State's residents.

2. Defendant Adam Bowen is a resident of the San Francisco Bay area, California. In 2007, he co-founded Ploom (later renamed Pax Labs), JUUL's predecessor company, with Defendant James Monsees. At all relevant times, he has been Chief Technology Officer and a member of the Board of Directors of JUUL. Bowen stepped down from his position as Chief Technology Officer in [REDACTED] [REDACTED] but has remained on the Board of Directors of JUUL.

3. Defendant James Monsees is a resident of the San Francisco Bay area, California. In 2007, he co-founded Ploom with Defendant Bowen. He served as CEO of JUUL until October 2015. In or around October 2015, Monsees transferred into the position of Chief Product Officer of JUUL. He held that position until October 2019. At all relevant times, he was also a member of the Board of Directors of JUUL until he stepped down in March 2020.

4. Defendant Nicholas Pritzker is a resident of San Francisco, California, and, with his family, owned the chewing-tobacco giant Conwood before selling it to Reynolds American, Inc., a subsidiary of British American Tobacco. Pritzker received a J.D. from the University of Chicago. He served as president of Hyatt Hotels Corporation and was a member of its Board of Directors from 1980 until 2007. More recently, he co-founded Tao Capital, which invested in JUUL in 2011. He has been on the Board of Directors of JUUL since at least August 2013. At least

from October 2015 until August 2016, he was on the Executive Committee of the Board of Directors and served as Co-Chairman. He controlled two of JUUL's seven maximum Board seats. Pritzker occupied the first seat during the relevant time period. Pritzker appointed Alexander Asseily and later Zachary Frankel to the second.

5. Defendant Riaz Valani lives near San Jose, California and is a general partner at Global Asset Capital, a San Francisco-based private equity investment firm. He became one of Ploom's first investors in 2007 and has been on the Board of Directors of Ploom and, later, JUUL since at least 2007. At least from October 2015 until August 2016, he was on the Executive Committee of the Board of Directors. He controlled two of JUUL's seven Board seats. Valani occupied the first seat during the relevant time period. Beginning in or around March 2015, Valani's second seat was occupied by Hank Handelsman. Zachary Frankel may have occupied Valani's second seat starting in 2017.

6. Defendant Hoyoung Huh currently lives in Florida. During most of the relevant time period, he lived and worked in the Silicon Valley area of California. He holds an M.D. from Cornell and a Ph.D. in Genetics/Cell Biology from Cornell/Sloan-Kettering. He has been a CEO or a Board member of numerous biotechnology businesses, including Geron Corporation. Huh has been on the Board of Directors of JUUL since at least June 2015. At least from October 2015 until August 2016, he was on the Executive Committee of the Board of Directors. Huh

occupied the Board seat appointed by a majority of the JUUL Board. Huh resigned from the Board in May 2018.

7. At all relevant times, Defendants have been engaged in trade or commerce in the State of North Carolina and subject to North Carolina's Unfair or Deceptive Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et seq.*

8. JUUL's marketing activities, which Defendants personally oversaw, have specifically targeted North Carolina consumers. In addition, Defendants approved marketing and sales plans that specifically targeted [REDACTED].

9. There are approximately 3,000 authorized JUUL retailers in the State who sell JUUL products pursuant to contractual arrangements with JUUL. JUUL also markets and sells to North Carolina consumers through the internet.

10. In addition to personally overseeing and directing JUUL's activities in North Carolina, JUUL, at the direction of Defendants, has specifically targeted North Carolina, including the cities of [REDACTED], in its marketing activities, including [REDACTED]. JUUL also sponsored a children's charity event in Pinehurst.

11. JUUL, at the direction of Defendants, engaged in research, development, sourcing, and manufacturing of its e-cigarette products in North Carolina, including through the use of North Carolina-based vendors and business partners, [REDACTED].

[REDACTED]

[REDACTED] and Defendants Bowen and Monsees engaged in discussions regarding [REDACTED]

12. This Court has personal jurisdiction over each Defendant.

13. The Court has subject matter jurisdiction over this dispute and venue is proper in Durham County pursuant to the Attorney General’s selection under N.C. Gen. Stat. § 75-14.

FACTUAL ALLEGATIONS

A. Cigarettes, E-Cigarettes, and JUUL’s Entry into the E-Cigarette Market

1. Background: the “Traditional” Tobacco Industry

14. Before the 1990s, the tobacco industry frequently promoted cigarettes as a gateway to a glamorous—and sometimes even healthy—lifestyle. Many of these tobacco marketing efforts specifically attracted minors.¹

¹ Joseph DiFranza, et al., *RJR Nabisco’s Cartoon Camel Promotes Camel Cigarettes to Children*, 266 JAMA 3149, 3149–53 (Dec. 11, 1991) (correction published at 268 JAMA 2034 (Oct. 21, 1992)), <https://www.ncbi.nlm.nih.gov/pubmed/1956102>.

15. One memo from a Lorillard marketing manager to the company's president explicitly stated: "The base of our business is the high school student."² The reason for this focus on youth was simple: profits. Tobacco companies realized that luring a younger generation to try—and ultimately become dependent on—cigarettes was essential to drive sustained corporate growth. A "Research Planning Memorandum on Some Thoughts about New Brands of Cigarettes for the Youth Market" noted that "if [R.J. Reynolds] is to survive and prosper, over the long term, we must get our share of the youth market."³ Philip Morris likewise intentionally marketed to teenagers pursuant to its strategy that "[t]oday's teenager is tomorrow's potential regular customer."⁴

16. In an effort to attract younger users, tobacco companies portrayed smoking as a sign of adulthood and a way for teenagers to project independence and enhance their perception among peers.⁵ The tobacco companies marketed cigarettes as stylish accessories to individuals who led enviably "cool" lifestyles.

17. As a result of the tobacco industry's youth-oriented promotional efforts, marketing creations such as the cartoon figure Joe Camel, the Marlboro Man, and

² Internal Memo from T.L. Achey, Lorillard Tobacco Company, to Curtis Judge, Product Information (August 1978).

³ Internal Memo from Claude Teague, R.J. Reynolds, Research Planning Memorandum on Some Thoughts About New Brands of Cigarettes for the Youth Market (Feb. 2, 1973).

⁴ Tobacco Company Quotes in Marketing to Kids, Campaign for Tobacco-Free Kids (May 14, 2001).

⁵ *United States v. Philip Morris USA, Inc.*, 449 F. Supp. 2d 1 (D.D.C. 2006).

Willie the KOOL Penguin, became household names. In the process, Camel and Marlboro became the favorite cigarette brands among teenagers.⁶

18. In addition, tobacco companies found that flavoring their products could also increase cigarettes' appeal to younger users since it was a "well known fact that teenagers like sweet products."⁷ It was widely recognized across the industry that new younger users were "most likely to begin with products that are milder tasting, more flavored, and/or easier to control in the mouth."⁸ One tobacco manufacturer even proposed using data from the Life Savers candy company to investigate the flavors youth preferred.

19. At the same time, tobacco companies sponsored research to manufacture counterarguments to the growing body of scientific literature linking cigarette use to a myriad undesirable health effects.

20. Eventually the truth came out, not only about tobacco's dangers but also that the companies were aware of the dangers and continued to intentionally focus their marketing efforts on minors.

⁶ Siobhan N. Perks, et al, *Cigarette Brand Preference and Pro-Tobacco Advertising Among Middle and High School Students - United States, 2012-2016*, 67 Ctrs. for Disease Control & Prevention: Morbidity & Mortality Wkly. Rep. 119, 119–24 (Feb. 2, 2018), <https://www.cdc.gov/mmwr/volumes/67/wr/mm6704a3.htm>.

⁷ Marketing Innovations, Inc. Brown & Williamson Tobacco Corp. Project Report: Youth Cigarette—New Concepts, U.C.S.F. Truth Tobacco Indus. Documents (Sep. 1972).

⁸ G.N. Connolly, *The Marketing of Nicotine Addiction by One Oral Snuff Manufacturer*, 4 Tobacco Control 73-79 (1995).

21. A wave of litigation resulted, culminating in the Master Settlement Agreement (MSA), reached in November 1998 among the state Attorneys General of 46 states—including North Carolina—five U.S. territories, and the District of Columbia. The MSA includes significant restrictions on cigarette marketing, including forbidding cigarette manufacturers from targeting youth, banning cartoons, transit advertising, most forms of outdoor advertising, product placement in media, branded merchandise, free product samples (except in adult-only facilities), and most sponsorships.

22. After the MSA was entered, its marketing restrictions combined with a variety of intensive public and private efforts—including legal restrictions, workplace policies, public-education campaigns, and other public health initiatives—led to a steep decline in tobacco use among the public as a whole, including minors.

23. By 2019, only 17.2% of adults in North Carolina smoked conventional cigarettes and only 8.3% of high school students in North Carolina reported using conventional cigarettes within the previous 30 days.

2. The Emergence of Electronic Cigarettes

24. When the state Attorneys General, including North Carolina's, entered into the MSA in 1998, the technology that led to the creation of e-cigarettes was in its infancy. Most of the restrictions in the MSA—including the youth-oriented

advertising restrictions—did not apply to certain types of e-cigarettes. And they still do not.⁹

25. Over the next two decades, technological advances made e-cigarettes commercially viable.

a. How E-Cigarettes Work

26. In recent years, and especially since 2015, companies offering e-cigarettes—led by JUUL under Defendants’ active direction and supervision—have moved into the void left by the decline of traditional tobacco. E-cigarettes, also known as vaporizers or electronic nicotine delivery systems (ENDS), are battery-operated, handheld smoking devices that create an aerosol from a liquid that typically contains nicotine, flavorings, and other chemicals.

27. E-cigarettes come in various designs. Some (called “cigalikes”) resemble traditional combustible tobacco cigarettes, while others have sleeker, more contemporary-looking designs that mimic everyday items such as pens or USB memory drives.¹⁰

28. E-cigarettes typically have four parts: (1) a cartridge or reservoir that contains a liquid solution of nicotine, flavorings, and various chemicals; (2) a battery or other power source; (3) a heating element or atomizer; and (4) a mouthpiece.

⁹ JUUL is now subject to certain youth-oriented advertising restrictions pursuant to the June 28, 2021 Final Consent Judgment in the matter styled as *State of North Carolina ex rel. Stein v. JUUL Labs, Inc.*, 19-CVS-2885 (Durham Cnty.).

¹⁰ National Institute on Drug Abuse, *Electronic Cigarettes (E-cigarettes)*, <https://www.drugabuse.gov/publications/drugfacts/electronic-cigarettes-e-cigarettes>.



29. The battery-powered heating element is typically activated by puffing on the mouthpiece. When the liquid solution heats up, it creates an aerosol that the user inhales through the mouthpiece. This delivery mechanism allows the nicotine and other chemicals to be absorbed rapidly into the user's bloodstream.

b. How E-Cigarettes Harm the Human Body, and Especially Minors

30. Because e-cigarettes are non-combustible, they do not contain the full range of carcinogenic chemicals that cigarette smoke contains. As a result, e-cigarette manufacturers and their advocates often claim that e-cigarettes are safer than traditional cigarettes.

31. But e-cigarettes are not safe. The nicotine in e-cigarettes is highly addictive. In addition to nicotine, e-cigarettes contain numerous harmful chemicals that, when aerosolized and inhaled into the lungs, can cause adverse health consequences.

32. In 1994, the Food and Drug Administration (FDA) recognized nicotine as a drug that produces chemical dependency. Since that time, countless studies have shown that nicotine is highly addictive and that people who consume nicotine and then suddenly stop experience a range of harmful withdrawal symptoms.

33. In addition, many studies have also shown that a person’s tolerance for nicotine increases with the amount of nicotine consumed. This leads people to require higher and higher doses to experience the same initial effects. As a result, and as the American Heart Association has acknowledged, nicotine is one of the hardest addictions to break.¹¹

34. Research also shows that e-cigarettes are an “on-ramp” to smoking traditional cigarettes, with adolescents who use e-cigarettes more likely to move on to combustible tobacco products, including cigarettes and cigars.¹² Studies show that youth who use e-cigarettes are as much as four times more likely to then go on to use cigarettes, putting them at risk for the same smoking-related illnesses and costs associated with cigarette use.¹³

¹¹ See American Heart Association News, *Why It’s So Hard to Quit Smoking* (Oct. 17, 2018), <https://www.heart.org/en/news/2018/10/17/why-its-so-hard-to-quit-smoking>.

¹² Kaitlyn M. Berry, et al., *Association of Electronic Cigarette Use with Subsequent Initiation of Tobacco Cigarettes in US Youths*, JAMA Network Open (2019), <https://doi.org/10.1001/jamanetworkopen.2018.7794>; Elizabeth C. Hair et al., *A Longitudinal Analysis of E-Cigarette Use and Cigar, Little Cigar or Cigarillo Initiation Among Youth and Youth Adults: 2017–2019*, 226 *Drug & Alcohol Dependence* 108821 (2021), <https://doi.org/10.1016/j.drugalcdep.2021.108821>.

¹³ Berry, *supra* note 12; Samir Soneji, et. al., *Association Between Initial Use of e-Cigarettes and Subsequent Cigarette Smoking Among Adolescents and Young Adults: A Systematic Review and Meta-analysis*, 171 *JAMA Pediatrics* 788, 787–97 (2017), <https://doi.org/10.1001/jamapediatrics.2017.1488>; Am. Acad. of Pediatrics, *Errata: Chaffee BW, Watkins SL, Glantz SA. Electronic Cigarette Use and Progression From Experimentation to Established Smoking*, *Pediatrics* (2018), <https://doi.org/10.1542/peds.2018-1885>; Jeremy Staff, et al., *Electronic and Combustible Cigarette Use in Adolescence: Links With Adjustment, Delinquency, and Other Substance Use*, 66 *J. Adolescent Health* 39, 39–47 (2019), <https://doi.org/10.1016/j.jadohealth.2019.08.030>.

35. Defendants were aware of the harmful effects of nicotine during the entire relevant period. Yet, instead of steering the company’s marketing focus away from youth, Defendants frequently understated the increased risks of dependence resulting from use of JUUL products, even going so far as to falsely suggest that nicotine is not harmful or addictive.

36. For example, in April 2018, a managing director for a media company sent Defendant Valani and certain JUUL executives a list of actions he proposed JUUL take in response to a *New York Times* article about the vaping epidemic among school-aged children. One such action was to “[e]ngage the press on all the definitions in every [expletive] story: it’s not a ‘cigarette’ of any kind; there’s no smoke and nothing medical science has on the books says water and nicotine is more harmful than water, sugar and caffeine.” Valani passed that advice along to JUUL’s CEO.

37. In an effort to counter independent scientific research revealing the dangers of e-cigarettes—and following the Big Tobacco playbook—JUUL has funded research of its own purporting to demonstrate the safety of e-cigarettes. But JUUL took its scientific self-promotion to new heights earlier this year when it paid over \$50,000 to “have the entire May/June issue of the *American Journal of Health Behavior* devoted to publishing 11 studies funded by the company offering evidence that Juul products help smokers quit.” All of the authors were paid by JUUL, and

18 of the 26 authors were either current or former JUUL employees.¹⁴ Three of the Journal's editors quit in protest over the arrangement.¹⁵

3. JUUL's Rapid Rise to Dominance in E-Cigarettes

38. Under Defendants' active direction and supervision, JUUL's corporate predecessor, PAX Labs, introduced JUUL-branded e-cigarettes onto the market in 2015, along with an aggressive marketing campaign that focused on young people. By 2017, JUUL's products had become so popular and commercially successful that PAX Labs and JUUL became two separate companies.

39. As JUUL's e-cigarettes became more popular, the company grew quickly. Between 2017 and 2018, JUUL increased sales to consumers by roughly █% and Defendants had caused the size of the company to █. By July 2018, during just one round of fundraising, Defendants were able to raise more than \$650 million from investors on behalf of JUUL. At that time, JUUL was valued at approximately \$15 billion. By December 2018, when Defendants gave Altria a 35% stake in JUUL in exchange for \$12.8 billion, JUUL was valued at approximately \$38 billion.

B. JUUL's Corporate Structure and Defendants' Roles in the Company

40. By June 2015, all Defendants were on JUUL's Board. Defendant Huh was the last of the Defendants to join the Board. Defendant Bowen, Monsees, and

¹⁴ David Dayen, *Juul: Taking Academic Corruption to a New Level*, Am. Prospect (July 7, 2021), <https://prospect.org/health/juul-taking-academic-corruption-to-new-level/>.

¹⁵ *Id.*

Valani had been members of the Board since 2007. Defendant Pritzker had been on the Board since 2013.

41. Defendants took a strikingly hands on approach to the company's directions and operations. "From the get-go, starting with Valani's short leash that he kept on Bowen and Monsees, the directors were usually hands-on and exerted enormous control over the start up in matters big and small."¹⁶ Defendant Valani, for instance, worked closely on aspects of JUUL's distribution efforts in December 2017.

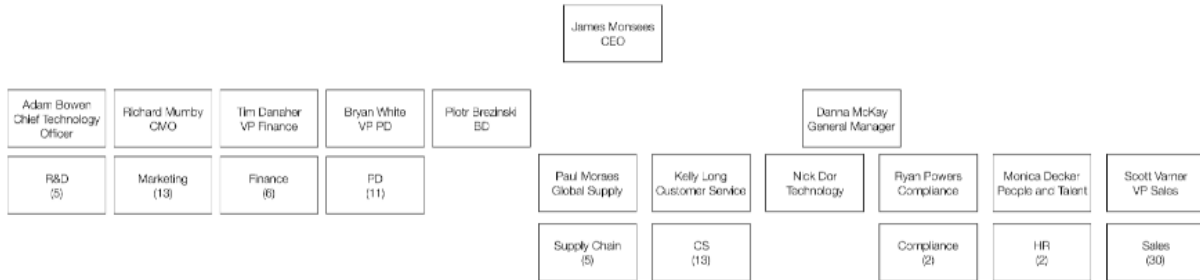
42. Defendants were actively and personally involved in the day-to-day operations and decision-making at JUUL. At all relevant times, Defendants authorized, directed, participated in, and/or were involved in all key decisions, actions, and omissions of JUUL involving the design, manufacture, inspection, testing (or lack thereof), packaging, labeling, marketing, advertising, promotion, distribution, and/or sale of JUUL products, and all decisions, actions, and omissions stated herein, except as otherwise provided.

43. For example, in or around March 2015, Defendants, and the rest of JUUL's Board, began receiving biweekly reports compiled by the Scientific and Regulatory Affairs department that summarized JUUL's recent interactions with researchers and other thought leaders and synthesized news articles concerning e-cigarettes and related issues. The hope among JUUL employees was that these reports would "[REDACTED]" from Defendants.

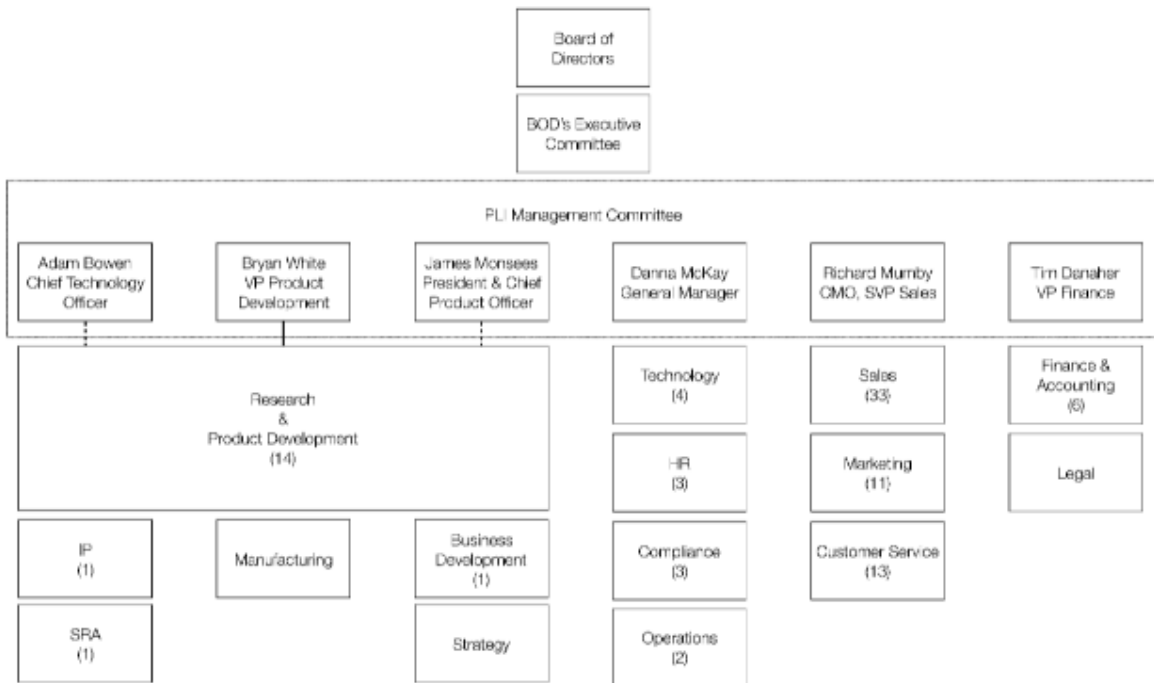
¹⁶ Lauren Etter, *The Devil's Playbook* 154 (2021).

44. Before late 2015, JUUL's organizational structure showed the CEO as the nominal head of the company, reporting to the Board.

org chart - October 2015



45. In October 2015, Defendant Monsees transitioned from CEO to Chief Product Officer at JUUL. While JUUL searched for a new CEO, the Executive Committee served in place of the CEO, as shown in the organizational chart below.



46. The Executive Committee was “formed to provide more consistent and focused direction to the company” and directly oversaw all senior executives. Defendants Huh, Pritzker, and Valani were on that Executive Committee; Defendant Huh served as Executive Chairman and Defendant Pritzker as Co-Chairman.

47. By December 2015, the Board and Executive Committee had decided that Defendant Huh “will make decisions on behalf of” the Executive Committee. In addition, Defendants Pritzker and Huh would be in JUUL’s office three or four days each week to “help us manage our people.” Defendant Valani was also a frequent visitor to JUUL’s offices, even before the company had a working product.¹⁷

48. Defendant Huh served as Executive Chairman of the Executive Committee until at least May 2016. Others deferred heavily to his decisions during that time.

49. The Executive Committee oversaw JUUL’s entire Management Committee, including the product development, sales, and marketing functions. It “dismiss[ed] other senior leaders and effectively [took] over the company.”¹⁸

50. This corporate takeover included determining the internal reporting structure of JUUL. For instance, at an October 2015 Board meeting, the Board

¹⁷ Alex Norcia, *JUUL Founders' First Marketing Boos Told Us the Vape Giant's Strange, Messy Origins*, VICE (Nov. 5, 2019), <https://www.vice.com/en/article/43kmwm/juul-foundersfirst-marketing-boss-told-us-the-vape-giants-strange-messy-origins>.

¹⁸ Julie Creswell & Sheila Kaplan, *How Juul Hooked a Generation on Nicotine*, N.Y. Times (Nov. 23, 2019), <https://www.nytimes.com/2019/11/23/health/juul-vaping-crisis.html>.

determined that the Executive committee would “address [the] issue” of “who Bryan [White, then VP of Product Development] should report to.”

51. The Executive Committee also pressed for even “more aggressive rollout and marketing.”

52. The Executive Committee’s control over decision-making and operations did not end after a new CEO was hired in August 2016. The members of the Executive Committee continued to be involved in key aspects of JUUL’s marketing and messaging via board meetings and communications with senior executives. As JUUL’s Chief Operation Officer observed in a June 2015 email to its Chief Marketing Officer, “[o]ur board members are more involved than most, and likely crazier than most, given the depth of experience they have in this industry.”

C. Defendants Designed JUUL in a Way That Appealed to Youth

53. Since JUUL’s launch, the company has frequently claimed that its “corporate mission” is to help adult smokers transition from traditional combustible tobacco cigarettes to a “safer” alternative.

54. But JUUL’s reality does not match these claims. The overwhelming evidence is that Defendants targeted a young demographic, well aware that their efforts would also appeal to minors. JUUL products are doing exactly the opposite of what JUUL claims, serving not as an “off-ramp” from traditional cigarettes for

experienced smokers, but as an enticing “on-ramp” for young, inexperienced, and frequently underaged users.¹⁹

55. In fact, years of anti-smoking campaigns contributed to denormalizing traditional combustible cigarette smoking. Between 2000 and 2017, cigarette use among teens dropped from 28% to just above 5%.

56. While many cheered this progress as a way to eradicate teen nicotine use, others—including Defendants Bowen and Monsees—saw a “huge opportunity for products that speak directly to those consumers who aren’t perfectly aligned with traditional tobacco products.”²⁰ Indeed, Defendants relied heavily on researchers and developers with significant tobacco industry experience to create the JUUL product. Defendant Monsees noted that “[t]he people who understood the science and were listed on previous patents from tobacco companies aren’t at those companies anymore. If you go to Altria’s R&D facility, it’s empty.”²¹ Many of those individuals helped develop JUUL. Together, this helped Defendants employ many of the financially successful strategies that made combustible cigarettes a hit with youth.

¹⁹ See Hanae Armitage, *5 Questions: Robert Jackler Says JUUL Spurs ‘Nicotine Arms Race’*, Stan. Med. News Ctr. (Feb. 6, 2019), <https://med.stanford.edu/news/all-news/2019/02/5-questions-robert-jackler-says-juul-spurs-nicotine-arms-race.html>.

²⁰ Josh Mings, *Ploom Model Two Slays Smoking with Slick Design and Heated Tobacco Pods*, Solid Smack (Apr. 23, 2014).

²¹ David Pierce, *This Might Just Be the First Great E-Cig*, Wired (April 21, 2015), <https://www.wired.com/2015/04/pax-juul-ecig/>.

1. Defendants Created, Marketed, and Sold JUUL in Flavors That Appealed to Underage Users

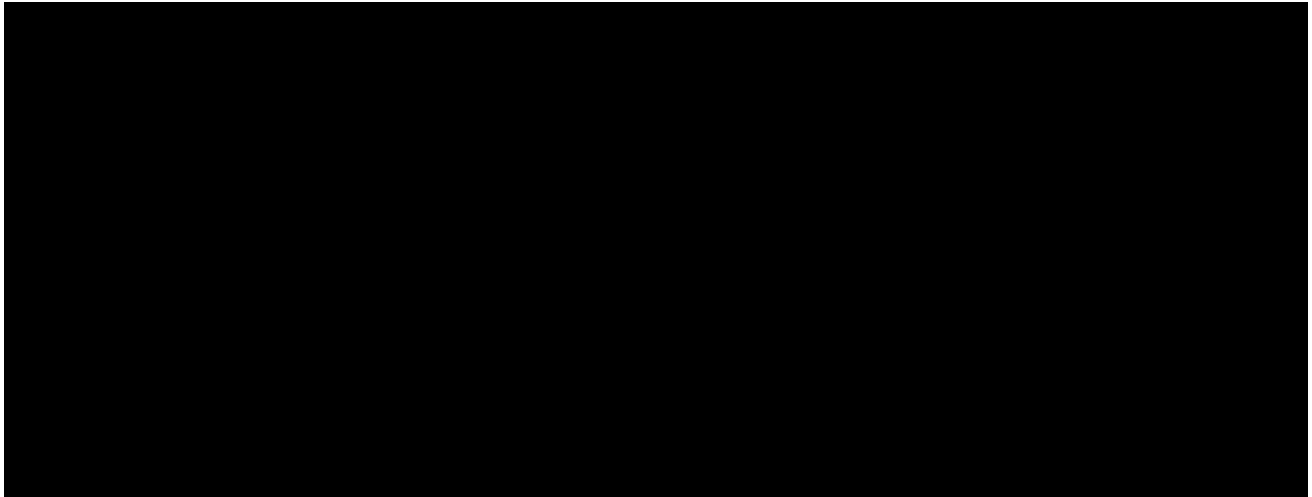
57. The JUUL device uses replaceable pods that contain liquid nicotine combined with flavors that appeal to young people, which have included crème brûlée, cucumber, and mango. The liquids or “juice” contained in the pods are made by [REDACTED]

58. In the months and years before JUUL’s launch, Defendants were well aware of widespread concerns that flavors and youth-oriented marketing would attract underage users to e-cigarettes. For instance, a [REDACTED] more than a year before the launch of the JUUL product—predicted that [REDACTED]. Similarly, a board meeting [REDACTED], identified “[REDACTED]” as a key aspect of the “[REDACTED].” Additionally, on [REDACTED], Defendants received a report citing [REDACTED].

59. Defendants knew that the names of the flavors needed to be “[REDACTED]” and “[REDACTED].” Despite being aware of this information, JUUL, under Defendants’ supervision and at their direction, launched its product in July 2015 in flavors including “bruule” and “fruut” and using methods and in channels particularly popular with young people. In addition, in 2015, Defendant Bowen

advocated changing the name of one flavor—mint—from “Crisp Mint” to “Cool Mint.”

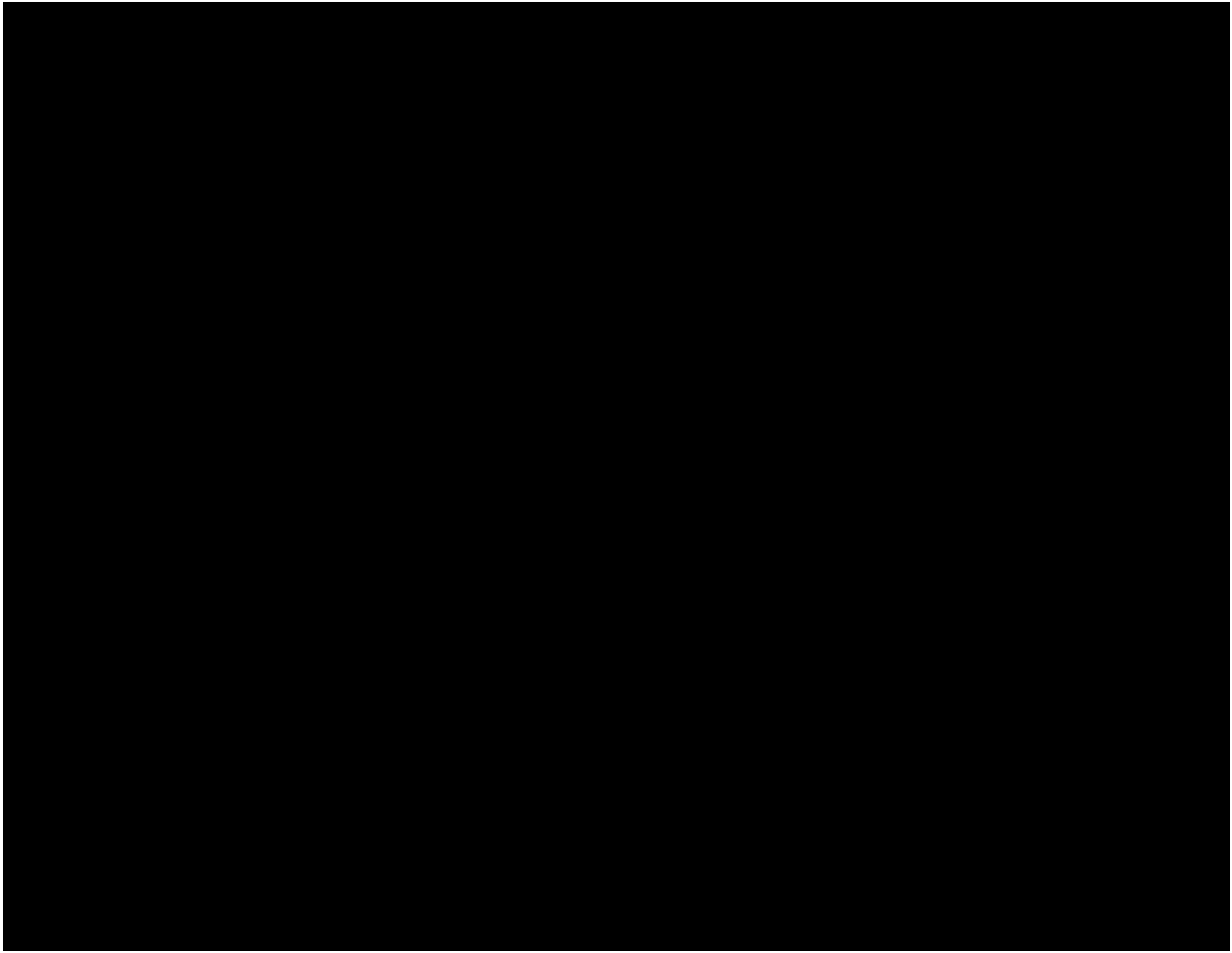
60. Over time, JUUL’s flavor options expanded to include other fruits (*e.g.*, pear, mixed berry) as well as flavors reminiscent of popular desserts (*e.g.*, lemon tart, apple tart) and ice cream flavors (*e.g.*, coco mint, cookies & cream).



61. The company has continued to test flavors, [REDACTED], [REDACTED], that appeal to younger users.

62. As early as at the time of the product’s launch in July 2015, Defendant Bowen suggested that JUUL should launch additional flavors and time these launches to related holidays. For instance, he envisioned the company releasing





2. Defendants Wanted to Minimize the Dreaded “Throat Hit” While Maximizing “Buzz”

63. Defendants designed JUUL’s nicotine-delivery system to deliver as much, or more, nicotine into users’ bloodstream than a cigarette.

64. Defendants approved product design attributes that made JUUL products as highly addictive as combustible cigarettes. For example, Defendant Bowen designed the chemical composition of JUUL products in a manner that made it particularly attractive to, and addictive for, young people. Defendant Bowen also designed JUUL products to create and sustain dependence by competing with traditional combustible cigarettes on the strength and speed of nicotine delivery.

69. As the patent filing (US-9215895-B2) shows, the JUUL product's 4% benzoic acid concentration coupled with a 5% concentration of nicotine salts causes the level of nicotine in a consumer's bloodstream to be approximately 30% *higher* than if the consumer had smoked a combustible cigarette. Nicotine salt solutions also produce a higher heart rate in a shorter amount of time than traditional cigarettes.

70. In October 2015, Defendant Bowen advised JUUL's Board "[REDACTED]
[REDACTED]
[REDACTED]." Defendants were aware of and approved these efforts—and understood that part of the company's success hinged on the JUUL products' highly addictive properties.

71. In addition, Defendant Bowen designed the JUUL product to make it easy to inhale by minimizing the dreaded, harsh "throat hit" that cigarette smokers typically experience. Defendant Bowen added benzoic acid to the e-liquid solution to help reduce the throat hit consumers experience, making the JUUL products "[a]ppropriate for inhalation."²³ This made the product easier for nonsmokers—especially younger consumers—to use.

72. Minimizing the throat hit would not have been necessary for JUUL to attract smokers, who are accustomed to the throat hit of combustible cigarettes.

²³ David Pierce, *This Might Just Be the First Great E-Cig*, Wired (April 21, 2015), <https://www.wired.com/2015/04/pax-juul-ecig/>.

Instead, minimizing the throat hit served a crucial role in luring a new generation of users and in setting JUUL apart from the other e-cigarettes on the market.

73. Defendants created a product that was easy for new users to adjust to and incredibly addictive. Coupled together, these traits served to hook an entirely new generation of young users to the JUUL product—just as combustible cigarette companies had done decades earlier. Defendants knew of this history of combustible cigarettes and deployed the same tactics here.

3. The JUUL Device Design Is Concealable and Evokes Inconspicuous, Everyday Technological Devices

74. In addition to designing the flavor and chemical composition of JUUL’s products, Defendants Bowen and Monsees were also intimately involved in designing the look of the JUUL e-cigarette device in a way that appealed to young users.

75. The result of Defendants Bowen’s and Monsees’s work was remarkable. JUUL’s e-cigarette device has a sleek, contemporary design that resembles an inconspicuous USB drive. In addition to being rechargeable through a computer’s USB



port, this design makes JUUL devices easily concealable, a feature that is attractive to many underage users.

76. Aside from the functionality, JUUL’s design evoked Apple’s sleek aesthetics. That high-tech design resonated with a younger demographic and helped set JUUL apart from other e-cigarettes, since its products looked “more like a cool

gadget and less like a drug delivery device. This wasn't smoking or vaping, this was JUULing.”²⁴ Various publications deemed JUUL devices the “iPhone of e-cigs.” The products were even sold in white boxes reminiscent of Apple devices.²⁵ JUUL found that [REDACTED] with consumers.

77. Students report that the sleek design allows them to use the product at school, in locker rooms, hallways, lunchrooms, and—in particular—bathrooms.²⁶

78. Defendants' active role in shaping the product's appearance and presentation continued even after launch. For instance, in or around July 2018, Defendant Monsees mandated that he needed to personally approve all artwork for all JUUL packaging.

4. Defendants Designed the Product to Include a “Party Mode,” Which Has No Functional Purpose but Serves to Attract Underage Users

79. The JUUL device includes an LED light that flashes a rainbow of colors when in “party mode.” A consumer activates “party mode” by waving the JUUL device until the white LED light starts flashing multiple colors so that all the colors are visible when the person inhales. Alternatively, a user can permanently

²⁴ *How JUUL Made Nicotine Go Viral*, Vox (Aug. 10, 2018), <https://www.youtube.com/watch?v=AF0poKBUyok>.

²⁵ Declan Harty, *JUUL Hopes to Reinvent E-Cigarette Ads with “Vaporized” Campaign*, AdAge (June 23, 2015), <https://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142>).

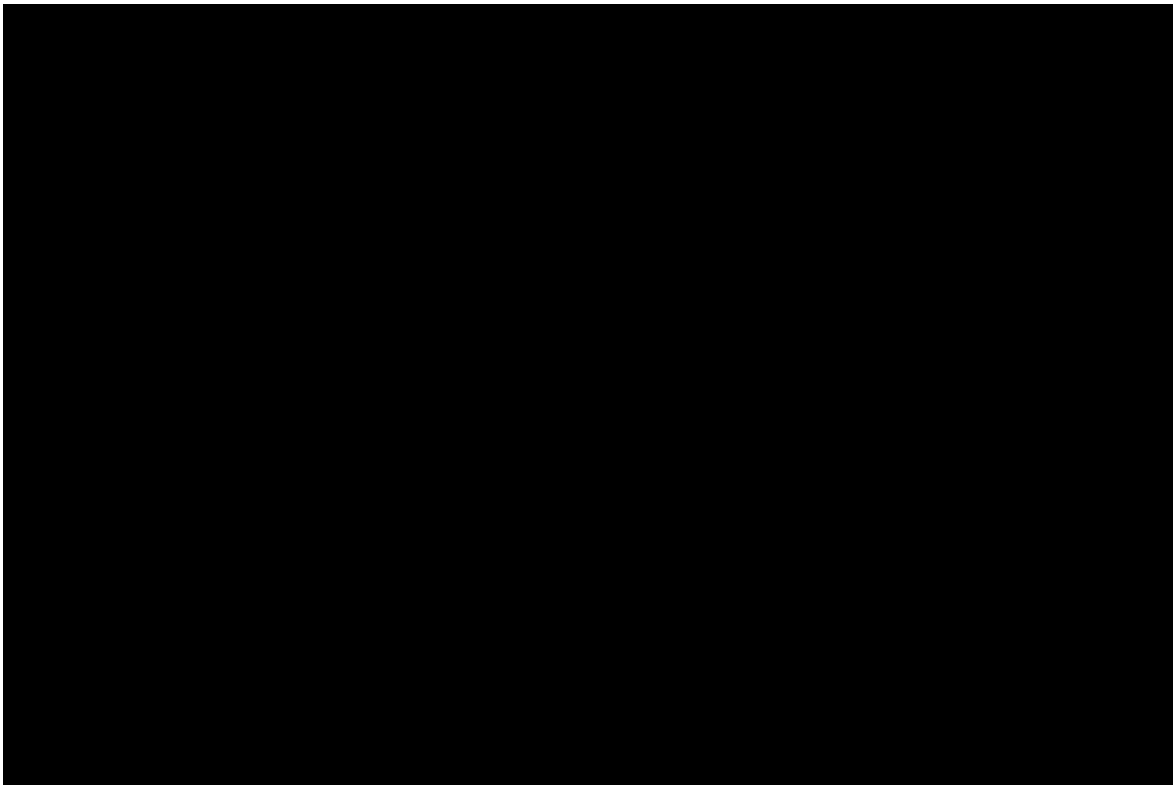
²⁶ Safe Kids Worldwide, *10 Things School Principals Need to Know About JUUL* (2018), http://www.kdheks.gov/tobacco/download/juul_fact_sheet.pdf.

activate party mode by quickly, firmly slapping the device. This feature made JUUL attractive and “cool” to young users.

80. Defendants advertised the existence and functionality of “party mode” on the company’s official social media account, with images that resemble children playing with glow sticks.



81. In a journal, Defendant Bowen compared this “██████████” to ██████████, a video game popular among youth:



D. Defendants Targeted Marketing to Youth, Including Underage Users

82. In North Carolina, it is illegal to “distribute, or aid, assist, or abet any other person in distributing tobacco products . . . to any person under the age of 18 years.” N.C. Gen. Stat. § 14-313(b).

83. Despite that legal prohibition, JUUL has become enormously popular and is used widely by underage teens. In the Youth Tobacco Survey of 2019, 35.5% of high school students in North Carolina reported using e-cigarettes within the past 30 days; among those, 11.1% reported using e-cigarettes on 20 of the past 30 days. Also in 2019, 6.1% of middle school students in North Carolina reported using e-cigarettes within the last month. Among those students who reported vaping in the past month, 20.7% of high schoolers and 11.5% of middle schoolers vaped daily.

84. JUUL’s prevalence among underage users is a direct and foreseeable result of its overall business and marketing strategy, over which Defendants had the “final say.”²⁷ Indeed, by mid-2015, all Defendants were intimately involved in the planning and execution of JUUL’s marketing activities that promoted JUUL products in ways Defendants knew would stoke their popularity among young people and teens. Defendants should have known that this aggressive marketing strategy would inevitably lead to significant underage use of JUUL e-cigarettes.

1. Defendants Focused JUUL’s Go-To-Market Strategy on Young Users, Including Those Who Were Underage

85. Defendants approved marketing and sales plans that specifically targeted [REDACTED].

86. Defendant Monsees has publicly described cigarettes as “probably the most successful consumer product of all time.”²⁸ Unsurprisingly, Defendants specifically drew from the Big Tobacco playbook, trying to hook an entirely new generation of users to nicotine by conveying the message that JUUL use was cool and desirable. In this way, even before launching the product, Defendants made concerted efforts to conceive the marketing of the JUUL product in a way that would attract youth users, including those who were underage.

²⁷ See *Examining Juul’s Role in the Youth Nicotine Epidemic, Hearing Before the H. Comm. On Oversight and Reform, Subcomm. on Econ. and Consumer Policy*, 116th Cong. 70 (2019) (statement of James Monsees, Co-Founder, JUUL Labs, Inc.), <https://oversight.house.gov/legislation/hearings/examining-juul-s-role-in-the-youth-nicotine-epidemic-part-ii> (quoted text at approximately 2:37:45 of testimony video).

²⁸ Kathleen Chaykowski, *Billionaires-to-be: Cigarette Breakers*, *Forbes India* (Sept. 27, 2018), <https://www.forbesindia.com/article/leaderboard/billionairestobe-cigarette-breakers/51425/1>.

87. When Defendants Monsees and Bowen initially created JUUL, they studied marketing strategies and advertisements contained in tobacco industry documents that had been made publicly available as part of the November 1998 MSA.²⁹ Those documents included examples of how tobacco companies appealed to youth, including by portraying smoking as “cool.”

88. Defendant Monsees noted that these documents “became a very intriguing space for us to investigate because we had so much information that you wouldn’t normally be able to get in most industries. And we were able to catch up, right, to a huge, huge industry in no time. And then we started building prototypes.”³⁰

89. Defendants also saw themselves as Big Tobacco’s competitors. As a result, they closely monitored Big Tobacco’s current advertising practices to inform their own decision-making about JUUL’s advertising practices. For instance, a [REDACTED] board presentation identified [REDACTED]. And a [REDACTED] presentation summarized and analyzed the marketing campaigns of [REDACTED].

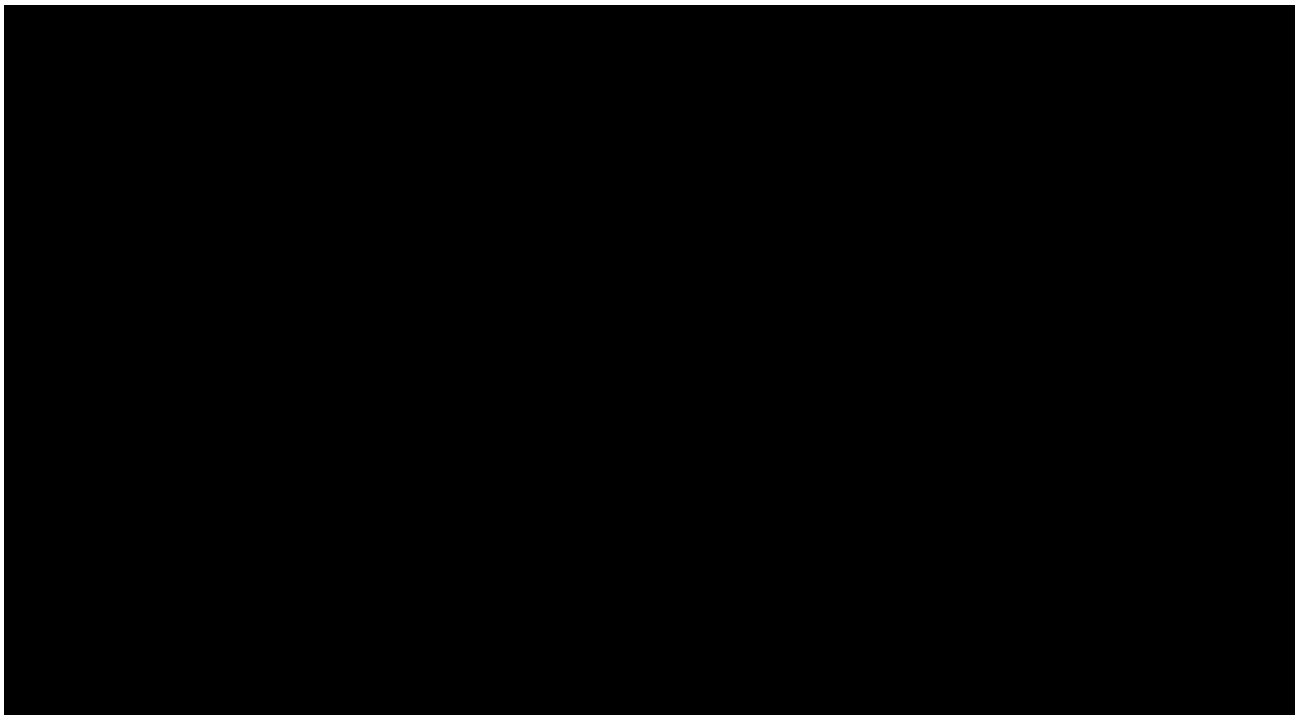
90. One of the lessons Defendants learned from Big Tobacco was the importance of marketing the JUUL product as “cool.” A “key pillar” to JUUL’s go-to-

²⁹ Gabriel Montoya, *Pax Labs: Origins with James Monsees*, Soc. Underground (last visited Nov. 14, 2021), <https://socialunderground.com/2015/01/pax-ploom-origins-future-james-monsees/>.

³⁰ *Id.*

market strategy was to “win with the ‘cool crowd’ in critical markets.” [REDACTED]
[REDACTED].

91. One way to achieve this objective was to promote the JUUL device as a “ [REDACTED].” Following this observation, Defendants proceeded to market the product as “cool,” using a flashy campaign featuring what JUUL’s marketing executives termed “cool kids”—a reference most commonly used to describe certain cliques in junior high and high school. A [REDACTED] presentation laid out this vision of Defendants’ and JUUL’s early marketing strategies:



92. In fact, each Defendant played a significant role in directing and approving JUUL’s youth-oriented marketing. On [REDACTED], JUUL’s Board of Directors—which included Defendants Bowen, Monsees, Pritzker, and Valani—met to discuss, *inter alia*, [REDACTED]. The Board—including Defendants—
[REDACTED]

“Vaporized” which debuted in June 2015. And by late 2015, Defendants were overseeing all of JUUL’s sales and marketing conduct.³²

94. Vaporized was a multi-pronged, youth-oriented marketing campaign depicting what JUUL called “cool kids” promoting JUUL products. The campaign was carried out through, among other tactics, parties, a Times Square billboard, free sample give-aways, social media, digital advertising on websites, earned media, and point of sale video displays.

a. Launch Party and Promotional Materials

95. Defendants, through JUUL, launched the JUUL device in June 2015 by debuting it at a launch party. The invitation to this launch party used bright pictures and young models who resembled teenagers to convey the impression that the product was “cool” and aspirational for underage users:



³² Chris Kirkham, *Juul Disregarded Early Evidence It Was Hooking Teens*, Reuters (Nov. 5, 2019), <https://www.reuters.com/investigates/special-report/juul-ecigarette>.



96. Boxman Studios, a Charlotte-based company, created the JUUL Vapor Lounge used at this event by modifying a shipping container into a “modern, inviting, and unique sampling experience for consumers.”³³

³³ Robert K. Jackler, et al., *Juul Advertising Over its First Three Years on the Market*, Stan. Rsch. Into the Impact of Tobacco Advert. (Jan. 31, 2019), https://tobacco-img.stanford.edu/wp-content/uploads/2021/07/21231836/JUUL_Marketing_Stanford.pdf.



97. At the launch party, Defendants encouraged sharing pictures on social media with young models who resembled teenagers, looking like they were [h]aving way too much fun” using the JUUL product.³⁴ The party guests were encouraged to share photos on their own social media accounts using the hashtag #LightsCameraVapor and #Vaporized.³⁵



³⁴ Erin Brodwin, *Silicon Valley E-Cig Startup Juul ‘Threw a Really Great Party’ To Launch Its Devices, Which Experts Say Deliberately Targeted Youth*, Bus. Insider (Sept. 4, 2018), <https://www.businessinsider.com/juul-e-cig-startup-marketing-appealed-to-teens-2018-7>.

³⁵ *Id.*



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#JUUL Vapor Love #LightsCameraVapor #Vaporized



1

98. The launch party was just one part of Defendants' Vaporized campaign.

99. As part of the Vaporized campaign, Defendants also used images of young people in digital and hard copy advertising materials, including a massive 12-screen billboard over New York's Times Square and a full spread in Vice magazine, which promotes itself as the "#1 youth media company in the world."³⁶ Defendant Monsees "personally reviewed images from the billboard photo shoot while it was in session."³⁷



³⁶ Vice, Digital Media Kit (Jan. 2016), <https://upload-assets.vice.com/files/2016/01/15/1452894236compressed.pdf>.

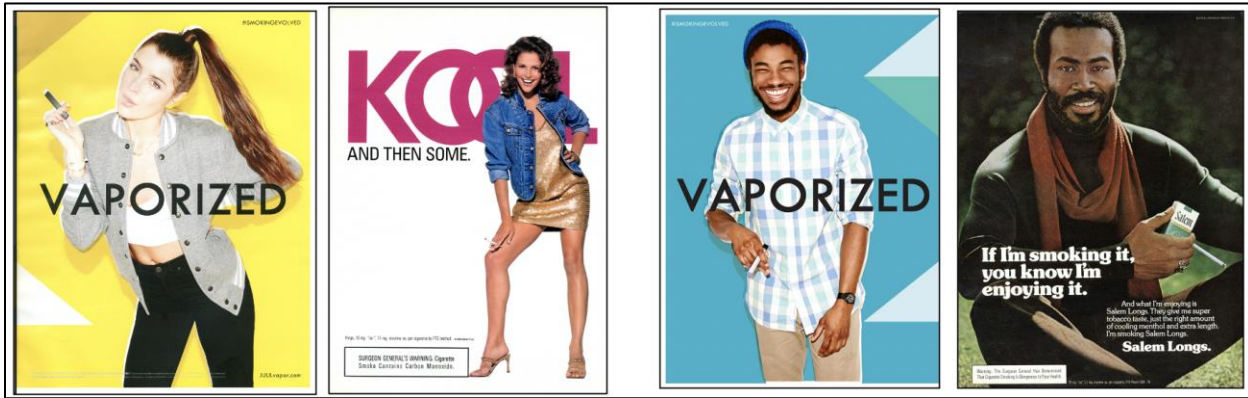
³⁷ Harris, *supra* note 31.

100. Images from the Vaporized campaign put the lie to Defendants’ claim that JUUL’s advertising only uses images of adults in a “mature setting.” Indeed, researchers and public-health experts have since determined that the Vaporized campaign’s launch parties and emphasis on dessert-like flavors had the effect of making JUUL products appealing to young people who might not have otherwise used tobacco products.³⁸

³⁸ Erin Browdin, *See How Juul Turned Teens Into Influencers and Threw Buzzy Parties To Fuel Its Rise as Silicon Valley’s Favorite E-Cig Company*, Bus. Insider (Nov. 26, 2018), <https://www.businessinsider.com/stanford-juul-ads-photos-teens-e-cig-vaping-2018-11>.



101. These images were strikingly similar to advertisements tobacco companies used to promote their combustible cigarettes:



102. Indeed, the chevron design in the background of the Vaporized campaign ads so closely resembled Marlboro’s promotional materials that Altria sued JUUL shortly after it appeared on the market.

103. As part of the marketing campaign that Defendants approved, following the initial launch party the company sponsored at least 25 other social events to promote JUUL products and distributed thousands of free JUUL products and “starter kits” at these events. None of the invitations to these events touted

Defendants' claimed "corporate mission" of helping adult cigarette smokers, nor did any of them indicate that JUUL contains nicotine, or that nicotine is addictive.

104. Even as JUUL's promotional blitz was starting in June 2015, Defendants were already being warned that the Vaporized campaign amounted to "irresponsible marketing" that would inevitably appeal to underage users.³⁹ As early as [REDACTED], Defendants Bowen, Monsees, Pritzker, and Valani were made aware that [REDACTED] [REDACTED]."

105. But Defendants persisted anyway. For example, at a June 17, 2015 Board meeting, Richard Mumby, JUUL's Chief Marketing Officer, "provided the Board with his perspective on the JUUL launch and customer feedback. The Board discussed the Company's approach to advertising and marketing and portrayal of the product, which led to a discussion of the Company's longer-term product strategy led by [Defendant] Monsees." Defendant Pritzker noted that the models "feel[] too young" but this was not considered a "[REDACTED]."

106. In [REDACTED], Defendants were given a "[REDACTED]" presentation in which a YouTube user stated that JUUL's advertising was "[REDACTED] [REDACTED]" Defendants did not address this concern. Instead, Defendant Valani commented that the YouTube comments were [REDACTED]."

³⁹ Declan Harty, *Juul Hopes to Reinvent e-Cigarette Ads with 'Vaporized' Campaign*, AdAge (June 23, 2015), <http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142/>.

107. In early July 2015, board member Alexander Asseily stressed to Defendants Valani and Pritzker that the company needed to change its marketing practices, noting that, “Our fears around tobacco / nicotine are not going away. We will continue to have plenty of agitation if we don’t come to terms with the fact that these substances are almost irretrievably connected to the [expletive] companies and practices in the history of business.”⁴⁰ Asseily said JUUL should “do[] it correctly which could mean not doing a lot of things we thought we would do like putting young people in our poster ads or drafting in the wake of big players in the market.” (ellipsis in original)⁴¹ Asseily was soon off the JUUL board.⁴²

108. Defendants were dismissive of any concerns of underage use. Defendant Huh and others argued that the “company couldn’t be blamed for youth nicotine addiction.”⁴³ And Defendant Monsees went as far as to complain that a “small percentage of underage consumers [was] creating a lot of noise and distracti[on].”⁴⁴

109. This “noise and distracti[on],” however, was not a concern that warranted self-reflection. Instead, these concerns were dismissed in favor of what

⁴⁰ Jamie Ducharme, *Juul: Inside the Rise and Fall of the Vaping Company*, Time (May 17, 2021), <https://time.com/6048234/juul-downfall/>.

⁴¹ *Id.*

⁴² Etter, *supra* note 16, at 155–56.

⁴³ Kirkham, *supra* note 32.

⁴⁴ Chaykowski, *supra* note 28.

Defendant Monsees observed: That the Vaporized campaign had made JUUL “the fastest growing e-cigarette company in the world, which is pretty awesome.”

110. Some JUUL employees recognized that the company’s actions were wrong, and potentially illegal. But, instead of addressing those concerns, Defendants leaned into the very actions that were exposing hundreds of thousands of North Carolina youth to JUUL’s marketing. As a former employee of JUUL observed, “a lot of people had no problem with 500 percent year-over-year growth.”⁴⁵

b. Social Media Campaigns

111. Defendants used launch party attendees as brand ambassadors to supercharge the company’s social media campaigns and make it more likely that the company’s advertising would “go viral.”



⁴⁵ Kirkham, *supra* note 32.

112. These brand ambassadors would advertise JUUL to their friends via word of mouth and on social media platforms especially popular among youth—*i.e.*, Instagram, Facebook, YouTube and Twitter. They would use JUUL-related hashtags, to generate viral interest in the product and amplify the advertising by inducing others to respond with other posts using those same hashtags. For example, the hashtag #JUUL was used thousands of times by underage social media account holders to tag photos and videos of themselves using the product.

113. Defendants’ decision to focus the company’s social media marketing campaign on youth-oriented platforms was not a result of a conscious effort to *avoid* underage users. Rather, Defendants focused on these platforms specifically because of their popularity among a very young demographic—despite the fact that these platforms were also extremely popular among youth.

114. Defendants monitored JUUL-related social media activity and knew that underage consumers were using and promoting their products.

115. For instance, a former JUUL senior manager admitted that the company already knew in 2015 that teenagers were widely using its products, in part because teens were posting images of themselves vaping on social media, using JUUL-related hashtags (e.g., #JUULLife, #JUULNation, #JUULTricks, #JUULChallenge, #JUULGang).

116. That sentiment was later echoed by JUUL’s youth prevention director, who noted that JUUL’s popularity among underage users stemmed in part from the company’s “[REDACTED].” Defendants often amplified these

teen-oriented messages by reposting them on JUUL’s own social media pages, which had hundreds of thousands of followers.

117. Defendants also knew that teenagers were disseminating social media posts, images, and videos of JUUL use. But instead of addressing this problem and shutting down the company’s youth-oriented marketing, Defendants sought to leverage this organic content produced by youth.

118. For example, in July 2016, Defendant Bowen circulated a link to the “juulboyz” Instagram account and expressed that he was “astounded by this ‘ad campaign’ that apparently some rich east coast boarding school kids are putting on” and remarked that it was “quite creative.” Defendant Bowen further noted that “[Defendant Valani] was thinking maybe we can leverage user generated content.”



119. Defendants knew that the company’s social media strategies had the effect of attracting youth to the JUUL product. Instead of changing those strategies and attempting to refocus the company’s marketing strategies on adults, Defendants not only continued JUUL’s aggressive social media practices, but also sought to find ways to leverage the initial word-of-mouth into generating even more content that was attractive to youth.

c. Influencers

120. Another technique Defendants used to promote JUUL’s youth-oriented brand is to pay social media personalities—known as “influencers”—who are popular among youth to promote JUUL products online. In September 2017, Defendants contracted with one influencer named Christina Zayas. In an interview with the *New York Times*, Zayas acknowledged that her value to JUUL was that she attracted a younger market.⁴⁶

121. JUUL’s use of “influencers” of young people has been a central part of JUUL’s marketing strategy under Defendants’ active direction and supervision. At its 2015 launch party, [REDACTED]

[REDACTED]

[REDACTED]

⁴⁶ Michael Nedelman, et al., *#JUUL: How Social Media Hyped Nicotine for a New Generation*, CNN Health (Dec. 19, 2018), <https://www.cnn.com/2018/12/17/health/juul-social-media-influencers/index.html>.



122. Defendants used celebrities and online influencers to promote JUUL products in a way that would attract youth. For instance, on [REDACTED],

[REDACTED]

[REDACTED] of pop star Katy Perry—whose hit song “Teenage Dream” spent 33 weeks in the no. 1 spot on the Billboard Hot 100—holding a JUUL while leaning in to talk to actor Orlando Bloom.⁴⁷ JUUL posted the article on its Facebook page to drive publicity.



123. Defendant Valani asked [REDACTED]” and Defendant Bowen responded, “[REDACTED]” Defendant Valani responded, “[REDACTED]”

⁴⁷ Josh Duboff, *Katy Perry and Orlando Bloom Share a Vape Pen at Golden Globes, Ignite Dating Rumors*, Vanity Fair (Jan. 11, 2016), <https://www.vanityfair.com/hollywood/2016/01/katy-perry-orlando-bloom-golden-globes>.

124. At the same time he was communicating with Defendants Monsees and Valani, Defendant Bowen also reached out to JUUL communications executive Sarah Richardson to ask whether “[REDACTED]” and noted [REDACTED]. Richardson responded that [REDACTED] [REDACTED], as noted above, Defendant Bowen passed along to Defendants Monsees and Valani. She also noted that [REDACTED] [REDACTED].⁴⁸ Richardson warned Defendant Bowen that it would be “[REDACTED] [REDACTED]” Defendant Bowen agreed [REDACTED].

125. Asked in deposition about his exchange with Richardson [REDACTED] [REDACTED], Defendant Bowen acknowledged that:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

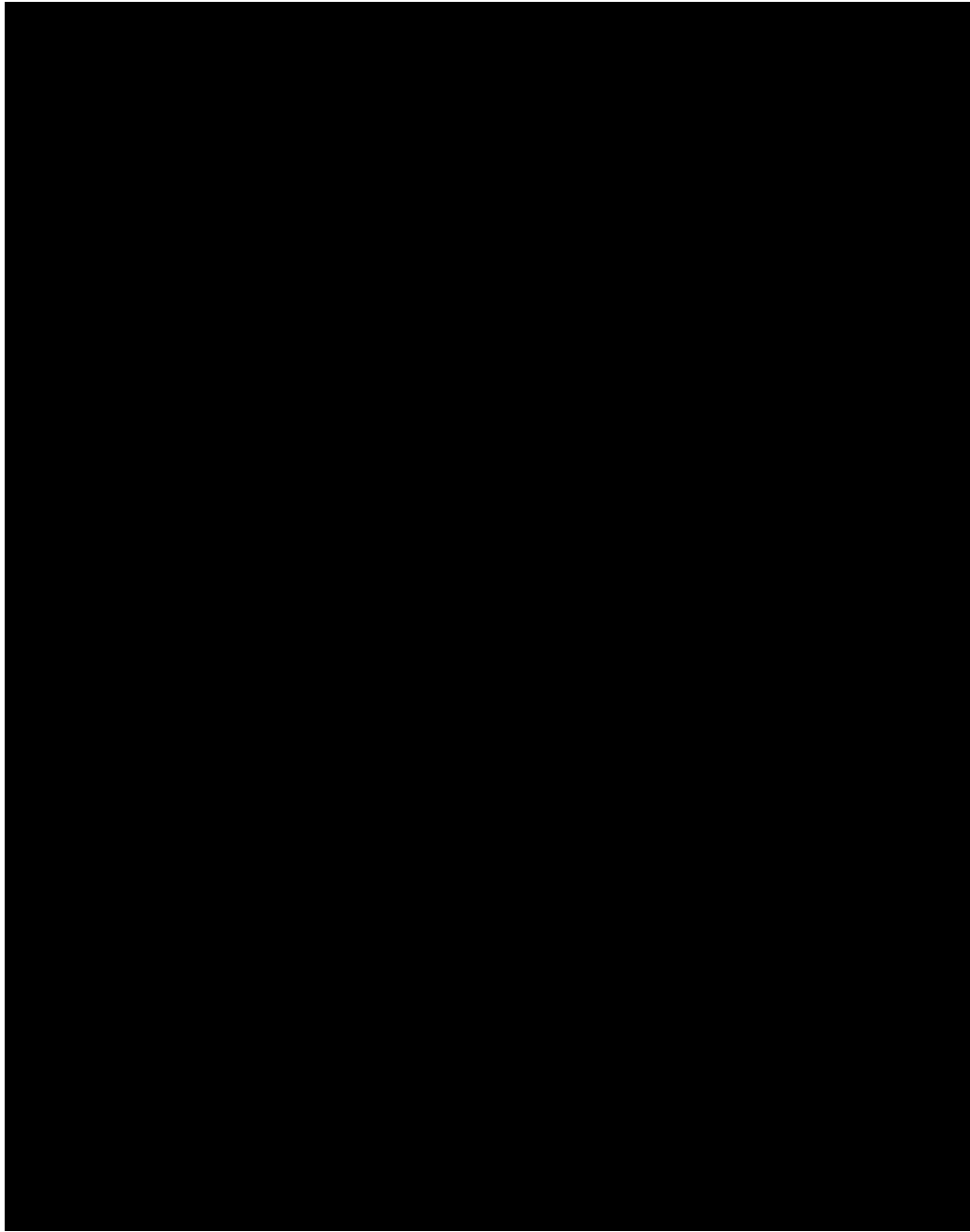
126. Despite knowing that the pop star would not be wise to publicize her JUUL use to her youth audience, Defendants continued to be interested in seeding the JUUL product among celebrities—including those popular among youth. And

⁴⁸ Seeding is the provision of product samples to individuals and influencers.

Defendants continued to show interest in amplifying as much as possible celebrity use of JUUL, even if that celebrity was popular among youth.

127. Two days after [REDACTED], Richardson explained to a colleague [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] and that Defendant Bowen “[REDACTED] [REDACTED]”

128. On [REDACTED], Defendant Monsees forwarded to JUUL’s board, including Defendants, a JUUL [REDACTED], which included a [REDACTED] [REDACTED] [REDACTED].



129. JUUL again promoted Katy Perry's use of JUUL in May 2016 on its Twitter page.



130. Following the direction of Defendants, JUUL marketing staff continued to seed celebrities and other influencers—including those popular among youth—through 2018, [REDACTED]

[REDACTED]

[REDACTED]



3. Defendants Attempted—and Failed—to Right the Ship with the Smoking Evolved Campaign

131. Public and regulatory criticism of the Vaporized campaign poured in after the campaign launched. Indeed, some of JUUL’s own board members had expressed “[REDACTED].”

132. In response, Defendants attempted to course-correct and change their promotional strategies with the Smoking Evolved campaign. Defendants were individually involved in reviewing and approving the promotional strategies related to the Smoking Evolved campaign.

133. The Smoking Evolved campaign was supposedly designed to provide more product-specific information under the already well-established brand umbrella. But in reality, it was derivative of the Vaporized campaign and reminded the consumer that the product featured in the Smoking Evolved campaign was the same product that was featured in the Vaporized campaign. Defendants accomplished this by maintaining the Vaporized campaign’s logo and using similar motif, typeface, and contemporary photography. In the end, Defendants were able to continue capitalizing on the Vaporized campaign through the Smoking Evolved campaign.

134. Just like the Vaporized campaign materials had harkened back to Big Tobacco’s advertisements of a generation earlier, the Smoking Evolved marketing materials were strikingly similar to cigarette advertisements from decades earlier. Notably, both sets of advertisements touted new technology that made the products supposedly more beneficial and desirable than they had previously been.

135. Defendants were individually and personally involved with the company's marketing choices, and therefore knew that the Vaporized campaign was attracting underage youth. As a result, Defendants were individually and heavily involved in the supposed pivot. For example, in or around March 2016, Defendant Huh informed Richard Mumby, JUUL's Chief Marketing Officer, that Huh would personally "review [the] brand and collateral positioning on behalf of the board moving forward."

136. In line with Defendants' stated interest in individually reviewing and approving the company's brand and collateral positioning, on March 2, 2016, Mumby sent Defendant Huh and certain executives at JUUL a presentation titled "[REDACTED]" That document, once again, confirmed what Defendants already knew, describing one of JUUL's post-launch insights as the realization that the "models that we used for the #Vaporized campaign appeared to be too youthful for many consumers (and the media)." One of the "objectives" of JUUL's rebrand was to "be sensitive to the subjectivity of youthfulness by positioning the brand to be mature and reliable."

137. The next week, on March 11, Mumby sent Defendant Huh another version of the presentation and thanked him "for the support on this," indicating Defendant Huh's continued personal involvement in the company's marketing decisions.

138. Despite Defendants' professed desire to modify JUUL's marketing materials so that they promoted the product to an older demographic, in reality the

substance of JUUL’s marketing materials changed very little. The typeface of the marketing materials and the photographic styles were identical to those from the Vaporized campaign. JUUL continued to promote the product on marketing channels that particularly appealed to youth audiences. The product still came in flavors that appealed to youth, was still designed to be sleek and easily concealable, and was still being designed with the “party mode” feature.

139. Moreover, Defendants—even as they exerted day-to-day control over the marketing of JUUL products—did nothing to recall the Vaporized campaign materials that were available and in use at retail stores across the state and country. Those materials remained available through 2017.

4. Defendants Directed JUUL’s Make the Switch Campaign, Which (Finally) Targeted Older, Experienced Smokers—Years Too Late

140. By 2018, Defendants received confirmation from multiple sources—including reports they commissioned—of what they had known for years: that JUUL was popular with underage users, particularly underage users who had never smoked combustible cigarettes before, and that their marketing practices were significantly contributing to the sharp uptick in youth use of tobacco products.

141. By 2018, JUUL dominated the market of young vapers, [REDACTED].

142. In [REDACTED], JUUL commissioned [REDACTED]. The results of this [REDACTED] were sent directly to, *inter alia*, Defendant Valani. That [REDACTED] confirmed that JUUL was “[REDACTED].” In particular, the [REDACTED] made clear that the “[REDACTED]

[REDACTED]

[REDACTED]’ The presentation also explained to Defendants that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]’

146. With the youth market conquered, Defendants followed the advice of a

[REDACTED], which concluded that “[REDACTED]
[REDACTED]’ beyond the
[REDACTED].

147. To reach older, established smokers, Defendants finally started a new marketing campaign that would attract adults. The new Make the Switch campaign featured approachable, average-looking older men, women, and couples who provided testimonials about switching from combustible cigarettes to JUUL products.



148. At the same time, Defendants and the company were caving to pressure from regulators and the community at large concerning JUUL’s youthful marketing. In the summer of 2018, they implemented the Make the Switch campaign and permanently deleted the entire inventory of JUUL’s social media posts from the Vaporized campaign. By August 2018, only Make the Switch campaign posts were available on Instagram.

149. These efforts were both half-hearted and belated: Defendants and the company had already started a viral social media marketing wildfire. The company no longer needed to amplify its voice in youthful ways online—youth were doing

that for them. In November 2018, there were 269,051 Instagram posts with the “#juul” hashtag, but by February 2020 that number had grown to 662,924.⁴⁹

150. JUUL’s prominence in youth-oriented marketing channels was not a foregone conclusion. It was Defendants’ decision. Indeed, Defendants knew all along how to market to adults. In stark contrast to the Vaporized and Smoking Evolved marketing campaigns that JUUL was using, the Make the Switch campaign shows that JUUL knew how to create an advertising campaign that actually targeted older, experienced smokers. Defendants made a conscious decision *not* to limit JUUL’s marketing to the adult population, even though they had the tools and ability to do so.

5. Defendants Touted Their Youth Prevention Initiatives as a Smokescreen for Continuing to Market Their Products to Youth

151. Defendants attempted to distract from their marketing to underage users by repeatedly emphasizing their purported youth prevention efforts. But these youth prevention efforts were not effective—nor were they intended to be.

152. JUUL and Defendants repeatedly and publicly denied marketing to teenagers. For instance, in November 2018, Defendant Monsees told *Forbes* that underage use would be “absolutely a negative for our business. We don’t want them.

⁴⁹ Lauren Czaplicki, et al., *#toolittletoolate: JUUL-related Content on Instagram Before and After Self-Regulatory Action*, PLoS One (2020), <https://doi.org/10.1371/journal.pone.0233419>.

We will never market to them. We never have.”⁵⁰ That same year, Kevin Burns, then-CEO of JUUL, announced publicly that he would “never want my 18-year-old son or 15-year-old daughter to try JUUL.” In July 2019, Defendant Monsees testified to Congress that “Our company has no higher priority than combatting underage use.”⁵¹ Also in 2019, Defendant Monsees told the *New York Times* that selling JUUL products to underage users was “antithetical to the company’s mission.”⁵² Defendant Bowen echoed that sentiment to the *New York Times*, telling the newspaper that the company tried to make JUUL “as adult-oriented as possible.”⁵³ JUUL’s conduct, however, proved that these assertions were demonstrably false.

153. But Defendants knew better. They knew that their products were too dangerous for underage users but were popular among youth. And this popularity was a direct result of Defendants and JUUL’s marketing efforts that attracted youth.

⁵⁰ Kathleen Chaykowski, *The Disturbing Focus of Juul’s Early Marketing Campaigns*, *Forbes* (Nov. 16, 2018), <https://www.forbes.com/sites/kathleenchaykowski/2018/11/16/the-disturbing-focus-of-juuls-early-marketing-campaigns/?sh=255d35c814f9>.

⁵¹ *Examining Juul’s Role in the Youth Nicotine Epidemic, Hearing Before the H. Comm. on Oversight and Reform, Subcomm. on Econ. and Consumer Policy*, 116th Cong. 1 (2019) (statement of James Monsees, Co-Founder, JUUL Labs, Inc.), <https://docs.house.gov/meetings/GO/GO05/20190725/109846/HHRG-116-GO05-WstateMONSEESJ-20190725.pdf>.

⁵² 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-teenmarketing.html>.

⁵³ *Id.*

health risks of cigarette use.”⁵⁴ Indeed, JUUL’s curriculum glossed over the fact that JUUL products were potentially harmful products that should be avoided. The result was anecdotal evidence that teens do not call JUUL products vaping devices: “when you say to a young person, ‘Vapes or e-cigarettes are harmful,’ they say, ‘Oh I know, but I’m using a JUUL.’”⁵⁵

158. JUUL employees recognized that the youth prevention program was uncannily similar to Big Tobacco’s distribution of various branded items at fairs and carnivals. Defendants should have been aware, themselves, of the similarities between JUUL’s youth prevention program and Big Tobacco’s advertising to youth as well.

159. Despite privately acknowledging that the company’s youth prevention efforts were woefully inadequate, Defendants continued to tout the supposed virtues of their youth prevention programs. Defendants Pritzker and Valani, in particular, closely controlled JUUL’s public relations and media strategies that promoted JUUL’s youth prevention efforts.

160. For instance, in April 2018 Defendants Pritzker and Valani edited a press release plugging JUUL’s support for raising the minimum age to purchase tobacco products to 21. While Defendants publicly supported raising the minimum age for purchase of tobacco products, however, they did nothing to make changes

⁵⁴ Victoria Albert, *JUUL Prevention Program Didn’t School Kids on Dangers, Expert Says*, Daily Beast (Oct. 19, 2018), <https://www.thedailybeast.com/juul-prevention-program-didnt-school-kids-on-dangers-expert-says>.

⁵⁵ *Id.*

that were entirely within their control by modifying their own behavior in how JUUL marketed its products in ways that specifically attracted youth, including those under the age of 21.

E. Defendants Deceived the Public About the Nicotine Content and Potency of JUUL’s E-Cigarette Products

161. In addition to leading thousands of underage consumers to use e-cigarettes and become dependent on nicotine, Defendants deceived JUUL’s consumers about the strength of the nicotine in JUUL’s products and misrepresented the nicotine equivalency of its products to traditional cigarettes.

162. Defendants actively participated in company discussions regarding the amount of nicotine in JUUL products and approved the deceptive representations made regarding those nicotine amounts and their equivalency to combustible cigarettes.

163. These misrepresentations tended to deceive consumers—including underage non-smokers—about the harmfulness of JUUL products.

1. Defendants Failed to Adequately Disclose Information About JUUL’s Nicotine Potency in JUUL’s Marketing Materials

164. Defendants created a product with high nicotine content that would give the user an extra kick. But Defendants failed to inform their consumers about the potency of JUUL’s product—even after it became clear that JUUL was becoming increasingly popular among youth.

165. Defendants authorized JUUL to market itself as available in 5% nicotine. This roughly translates to nicotine in the amount of 59 mg per mL respectively.

166. E-cigarette products exceeding 20 mg of nicotine per mL—slightly more than one-third of what JUUL’s products contain—are banned in the European Union and the United Kingdom.

167. After learning about the relative nicotine content in JUUL pods in late 2018, Israel banned all imports and sales of JUUL products, noting that “a product that contains a concentration of nicotine that is almost three times the level permitted in the European Union constitutes a danger to public health and justifies immediate and authoritative steps to prevent it from entering the Israeli market.”⁵⁶ JUUL has also been banned in China.⁵⁷ In addition to these JUUL-specific bans, since JUUL came onto the market, e-cigarettes have been banned in India, Thailand, Singapore, Cambodia, and Laos.

168. JUUL’s exceptionally high nicotine potency has been described by a tobacco marketing expert as creating a “nicotine arms race.”⁵⁸

⁵⁶ Ronny Linder Ganz, *JUUL Warns It Will Fight Israel Over Its Potential Ban on E-Cigarettes*, Haaretz (June 3, 2018), <https://www.haaretz.com/israel-news/business/juul-warns-itwill-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058>.

⁵⁷ Shelia Kaplan, et al., *The World Pushes Back Against E-Cigarettes and Juul*, N.Y. Times (March 30, 2020), <https://www.nytimes.com/2020/03/30/health/vaping-juul-international.html>.

⁵⁸ *Id.*

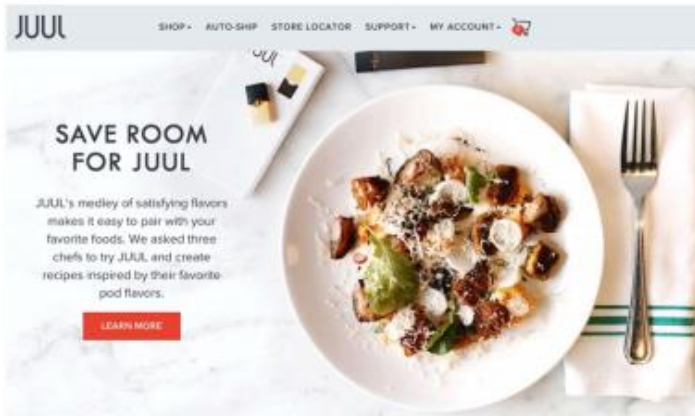
169. None of JUUL’s marketing materials, however, disclosed to consumers that JUUL’s product delivers an exceptionally potent dose of nicotine.

170. Defendants, who actively reviewed and approved JUUL’s marketing plans, failed to direct JUUL to disclose this information to consumers. Instead, Defendants allowed JUUL to continue describing the nicotine concentrations in terms of percentages, which had the effect of masking the potency of the product.

171. Defendants continued to turn a blind eye to this issue, even after they became aware that young people, including underage individuals, were increasingly using the JUUL product.

172. In fact, instead of disclosing the fact that the JUUL product contained a potent and high dose of nicotine, JUUL’s marketing *downplayed* the potential harms. For instance, in late 2015, JUUL began a “Save Room for JUUL” marketing campaign that framed JUUL’s pods as “flavors” that could be paired with foods. That slogan also called to mind the phrase “save room for dessert,” so as to convey the impression that JUUL is a sweet treat.⁵⁹ These campaigns continued through 2017. These advertising and marketing campaigns were reviewed and approved by Defendants and misled consumers—including North Carolina youth—into believing that the JUUL product was not as potent as it was.

⁵⁹ Jackler, *supra* note 33.



JUUL @JUULvapor · 28 Aug 2017
 Do you brulée? RT if you enjoy dessert without the spoon with our Creme Brulee #JUULpods bit.ly/2wvDk38



2. Defendants Failed to Adequately Disclose Information About JUUL's Nicotine Content in JUUL's Marketing Materials

173. Defendants actively reviewed and approved marketing campaigns that did not disclose, or did not adequately disclose, that JUUL products contain nicotine at all.

company website, in advertisements, and in comments to media, regulatory authorities, and the public, Defendants repeatedly claimed that the amount of nicotine in one JUUL pod is approximately equivalent to the amount of nicotine contained in one pack of cigarettes or 200 puffs.

178. This comparison is deceptive.

While the nicotine contained in each pod, *by weight*, might be approximately equal to the amount of nicotine contained in a pack of cigarettes, the true amount of nicotine that a consumer takes into her bloodstream from a JUUL pod is significantly more than if she had smoked a pack of cigarettes.

179. This is because the way consumers use JUUL is significantly different than the way consumers use traditional combustible cigarettes. Each individual combustible cigarette can be smoked only for a certain amount of time before a consumer has to light another cigarette. Because a cigarette burns continuously, even when the user is not inhaling and thus not consuming nicotine, nicotine is “wasted” in the air. Additionally, some nicotine is caught in the filter of a combustible cigarette. The smoke produced by a combustible cigarette also produces significant throat irritation, creating a natural point at which a consumer must interrupt her smoking. Traditional combustible cigarettes may not be used inside

YOUR SAVINGS

TOTAL YEARLY SAVINGS

\$365.00

One 5% strength JUULpod is designed to replace one pack of cigarettes in both amount (20 cigarettes ~200 puffs) and nicotine strength. If you consume JUULpods in a manner consistent with your current cigarette consumption, you may save \$365.00* a year by switching to JUUL. Usage patterns may vary by user.

DID YOU KNOW?

One JUULpod is intended to last ~200 puffs. However, individual smoking and vaping patterns may vary.

* does not include applicable taxes.

most facilities and consumers must take breaks in the day to go outside and use combustible cigarettes.

180. By contrast, JUUL pods can be used continuously until the liquid in the pod is fully aerosolized (without any wastage), in part because JUUL's nicotine salts produce an easier-to-inhale aerosol that is more palatable than the smoke produced from a combustible cigarette and produces less throat irritation. As noted in a study on using nicotine salts to deliver nicotine into the lungs, a user's "decrease in the perceived harshness of the aerosol [vapor]" leads to a "greater abuse liability of the product."⁶¹ Many consumers also use the JUUL device indoors, making smoke breaks unnecessary. Moreover, the consumer's experience inhaling one JUUL pod is markedly different than smoking 20 cigarettes. Whereas smoking 20 cigarettes may necessitate going outside on 20 occasions, JUUL pods produce minimal odor and can easily be consumed indoors without detection. Additionally, JUUL's flavored pods, popular among young people, mask the bitter taste typically associated with high nicotine-containing products, thus allowing a consumer to inhale more nicotine in a single sitting than one would inhale when smoking a combustible cigarette.⁶²

⁶¹ Anna K. Duell, et al., *Free-Base Nicotine Determination in Electronic Cigarette Liquids by 1H NMR Spectroscopy*, 31 Chem. Res. in Toxicology 431, 431–34 (2018), <https://doi.org/10.1021/acs.chemrestox.8b00097>.

⁶² Matthew C. Fadus, et al., *The Rise of E-cigarettes, Pod Mod Devices, and JUUL among Youth: Factors Influencing Use, Health Implications, and Downstream Effects*, 201 Drug & Alcohol Dependence 85, 85–93 (2019), <https://doi.org/10.1016/j.drugalcdep.2019.04.011>.

181. Because of the way consumers use the JUUL e-cigarette, JUUL’s claims—which were made at the active direction and supervision of Defendants—that one pod is “equivalent” to a pack of cigarettes or 200 puffs is deceptive.

182. Defendants were aware of the differences in usage of combustible cigarettes and the JUUL device and still continued to press the claim that one JUUL pod is “equivalent” to a pack of cigarettes or 200 puffs. JUUL’s own study provided in support of the 2013 patent application that Defendants compiled and completed found that nicotine salts produced increased nicotine levels in the bloodstream compared to the nicotine from combustible cigarettes. Even as late as 2018, JUUL’s regulatory head told JUUL’s then-CEO that each JUUL pod contains “roughly twice the nicotine content of a pack of cigarettes.”

183. Despite having this knowledge, Defendants made no efforts to amend or otherwise clarify the company’s equivalency statements. Instead, during the relevant time period, Defendants allowed the company to continue to make deceptive statements about nicotine equivalency, as compared to traditional combustible cigarettes.

4. Defendants Falsely Claimed That JUUL Was for Smoking Cessation

184. Defendants approved the “Make a Switch” marketing campaign that JUUL adopted in 2018, including marketing materials that deceptively portrayed JUUL as having a therapeutic function as a cessation device. By approving these marketing campaigns, Defendants caused the company to portray the device as a cessation device.

185. Defendants knew that they were not authorized by the FDA to market JUUL products as cessation devices because the FDA had not approved JUUL products as such. Yet Defendants reviewed, approved, and went forward with marketing plans that portrayed JUUL as a cessation device anyway.

186. Defendants took direct action to portray the device as cessation equipment, even outside the “Make the Switch” campaign. For example, in 2019, Defendant Monsees went as far as to testify before Congress that “[t]he history of cessation products have extremely low efficacy. That is the problem we are trying to solve here.”⁶³

187. As late as May 2019, JUUL’s CEO reiterated this notion that JUUL was an alternative to combustible cigarettes: “[JUUL’s] simple and convenient system incorporates temperature regulation to heat nicotine liquid and deliver smokers the satisfaction that they want without the combustion and the harm associated with it.”⁶⁴

188. But all along, Defendants knew that a significant number of smokers who try JUUL products do not ultimately switch but rather consume *both* combustible cigarettes and JUUL. Even if FDA approval were not required, Defendants knew that the portrayal of the device as a cessation device was factually inaccurate.

189. And regardless of FDA authorization, Defendants made several public-facing statements that were misleading because the company never intended the product to be a cessation device. Defendants approved pushing the “cessation”

⁶³ Yasmin Bendaas, *Juul ‘Specifically and on Purpose Not a Cessation Product’ Co-Founder Says to Congress*, EdNC (July 26, 2019) <https://www.ednc.org/juul-specifically-and-on-purpose-not-a-cessation-product-co-founder-says-to-congress/>.

⁶⁴ Letter from FDA to Kevin Burns, U.S. Food & Drug Admin. (Sept. 9, 2019), https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/juul-labs-inc-590950-09092019#_ftnref6.

narrative, even though at least some senior staff admitted that the company was not interested in developing the JUUL device as a cessation device. One JUUL engineer remarked: “We don’t think a lot about addiction here because we’re not trying to design a cessation product at all . . . anything about health is not on our mind.”⁶⁵

F. Defendants Took a Lax Approach to Age Verification to Maintain Sales

190. After designing a product that was particularly appealing to underage consumers and marketing that product in channels that particularly appeal to underage consumers, Defendants created a youth-friendly method for distributing JUUL’s products: internet sales, with age-verification techniques that Defendants knew to be ineffective. Upon learning of the inadequacies in JUUL’s online age-verification system, instead of shoring up those deficiencies, Defendants continued to take a lax attitude toward enforcing effective age-verification techniques. In the words of its head of customer service, [REDACTED]. Defendants also ensured that JUUL [REDACTED]. Finally, Defendants also directly marketed JUUL products to underage users through their email marketing lists. Together, Defendants facilitated the youth vaping epidemic through JUUL’s online sales and marketing.

⁶⁵ Kevin Roose, *Juul’s Convenient Smoke Screen*, N.Y. Times (Jan. 11, 2019), <https://www.nytimes.com/2019/01/11/technology/juul-cigarettes-marketing.html>.

1. Defendants Maintained Inadequate Age-Verification Procedures

191. As early as 2014, one of the self-proclaimed core values that Defendants adopted was to be “[REDACTED],” which was defined as a “[REDACTED].” Defendants certainly adopted that mindset when it came to restricting sales of JUUL’s products to of-age users. In 2014, none of Defendants sought to include as part of the company’s compliance objectives the fact that sales should be restricted to of-age users—even when Defendants were simultaneously very concerned about restricting sales of counterfeit products.

192. N.C. Gen. Stat. § 14-313(b2) requires that any entity that sells tobacco over the internet must “perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the individual during the ordering process to establish that the individual ordering the tobacco products is 18 years of age or older.” This law requires: (a) that a purchaser’s identity be verified (*i.e.*, the company must confirm that the person who is ordering the product is the person they say they are) by a third-party service and (b) that a purchaser be at least 18 years old, as confirmed by a third-party service. Defendants at various times failed to satisfy one or both of these conditions.

193. Defendants claimed on JUUL’s website that JUUL’s online store was “restricted to people 21 and over” and that it utilized “industry leading” third-party

verification.⁶⁶ In reality, however, Defendants allowed underage users to evade age-verification in a variety of ways.

194. First, between the launch of the product and 2018, Defendants did nothing to verify a purchaser's identity.

195. Second, Defendants also failed to ensure that North Carolina consumers were at least 18 years old. Defendants contracted with Veratad to conduct JUUL's third-party age verification. Tobacco companies like Lorillard and Altria have also retained Veratad for these purposes. Veratad cross-referenced the information submitted by a consumer with publicly available records to confirm the consumer is of legal age to purchase JUUL's products. According to Defendants, if these records did not match the information submitted by a consumer, the sale was rejected.⁶⁷ In practice, however, the company's age-verification system contained numerous loopholes.

196. Between the launch of the product and April of 2017, a user could pass age verification if they [REDACTED]. This means that an underage user could purchase a JUUL from JUUL's website at launch simply by providing [REDACTED].

⁶⁶ JUUL, Company News, Youth Prevention, *JUUL Labs Action Plan, Message from Kevin Burns, CEO JUUL Labs* (Nov. 13, 2018).

⁶⁷ Section 14-313(b2) of the North Carolina General Statutes requires that any entity that sells tobacco over the internet must "perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the individual during the ordering process to establish that the individual ordering the tobacco products is 18 years of age or older."

Defendants then required [REDACTED] to match in April 2017. So, after April 2017, an underage user could purchase a JUUL by providing [REDACTED].

197. Defendants even allowed age verification procedures that approved purchases made by users who—accurately and honestly—identified themselves as underage at the time of the purchase. If, while placing an online order, a customer input a date of birth that reflected an age of under 21, the website still permitted the sale, so long as any consumer over the age of 21 was registered with the same public records information. This allowed underage customers who share the same name, for example, as a parent or other adult relative in the same household to circumvent the age verification process and purchase JUUL products—even though the customer performing the transaction is underage. This circumstance became to be known within the company as the “father/son scenario.”

198. Defendants also allowed underage users to evade the age-verification procedures by giving them [REDACTED].

[REDACTED]

199. N.C. Gen. Stat. § 14-313(b2) also required that companies that, like JUUL, sell tobacco products through the internet, “perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the individual *during the ordering process*.” From launch until February 2016, and from August 2017 on, Defendants ignored this requirement. [REDACTED]

[REDACTED], meaning that individuals were not age verified “during the ordering process.” N.C. Gen. Stat. § 14-313(b2) When asked if age verification would occur for each order, a JUUL employee succinctly stated, “[REDACTED]

200. Defendants weakened the age verification procedures even further following launch. In 2016, [REDACTED]

[REDACTED]. JUUL’s then-CEO complained that the requirement for an adult signature upon delivery “is a restrictive policy that will absolutely have business impact for unclear value re our approach to age restriction and re our public perception.”

201. Even as late as January 2018, [REDACTED]

[REDACTED] JUUL ultimately stopped [REDACTED]

[REDACTED]. This frequently allowed consumers under age 21, and often under age 18, to purchase devices and flavored pods.

2. Defendants Learned That the Age Verification Procedures Were Inadequate

202. Defendants knew that the company’s age-verification procedures were inadequate because they were informed—numerous times—by Veratad, concerned parents, and even their own employees that [REDACTED]

[REDACTED].

203. Veratad, the company JUUL— and tobacco companies like Lorillard and Altria—hired to conduct its third-party age verification, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] JUUL’s age-verification processes each day. Veratad expressed that this rate indicated that JUUL has a younger demographic and “[REDACTED].”

204. And when Veratad informed the company that its [REDACTED]

[REDACTED]

[REDACTED], Defendants concluded that these failed date of birth matches “[REDACTED]

[REDACTED].”

205. Parents also frequently complained that JUUL’s age-verification processes was insufficient. [REDACTED]

206. JUUL’s own employees informed Defendants of the problems with the company’s lax age-verification procedures.

207. For example, Defendants knew [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].”

208. Some JUUL employees expressed their lack of confidence in the company’s age-verification processes since it “makes it really easy for a kid to pass with their parent’s info.” [REDACTED]

[REDACTED]. Likewise, Defendants knew that “[REDACTED]”

209. In August 2017, when JUUL announced that it was raising the minimum purchase age on its website to 21 years old, it was met with outrage from some individuals [REDACTED]. [REDACTED] threatened that the company was “[REDACTED]”—a clear sign to Defendants that the existing customers were overwhelmingly underage.

210. And in August 2018, a JUUL Director [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. Despite Knowing That the Age-Verification Procedures Were Inadequate, Defendants Took No Steps to Improve the Procedures, in an Effort to Avoid “[REDACTED]” With Consumers

211. Defendants were aware that youth were obtaining JUUL products. Yet, despite their often granular control over company strategy and operations, Defendants failed to take necessary measures to ensure JUUL was not allowing youth to obtain its products.⁶⁸ The meager measures Defendants did take functioned mainly to give the *appearance* that JUUL was preventing youth access to its products and did little to meaningfully restrict such access. Defendants were especially focused on “[REDACTED].” Indeed, JUUL’s CEO at the time admitted “[REDACTED]

[REDACTED]

⁶⁸ *Juul Founder in Interview: What Do You Do to Prevent Children from Becoming Dependent on Your E-Cigarette?*, Teller Rep. (Jan. 8, 2019), <https://www.tellerreport.com/business/--juul-founder-in-interview--what-do-you-do-to-prevent-children-from-becoming-dependent-on-your-e-cigarette---.Hkxy4FHzGN.html>.

[REDACTED]

[REDACTED]

212. Despite being alerted, repeatedly, that the company’s age-verification process was insufficient, Defendants allowed the company to continue to use a system that it knew to be ineffective because it did not want to risk suppressing sales.

213. In fact, Veratad explicitly informed JUUL that there are “[REDACTED]

[REDACTED]

[REDACTED].” And Defendants made no effort [REDACTED].

214. Rather, Defendants turned a blind eye toward known inadequacies in JUUL’s age-verification process, attempting to ensure that the legal requirement of not selling to minors not be so onerous that it creates friction for consumers trying to order JUUL’s products.

215. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

4. Defendants Allowed the Company to Market to Underage Users by Email

216. Even when a consumer was screened out or quit the age-verification process, Defendants subscribed the consumer to JUUL’s marketing emails. In many

cases, even after Defendants had discovered that some of their customers were under the legal age to purchase JUUL's products, Defendants did not direct their employees to remove those customers' email addresses from JUUL's marketing target lists.

217. Internal data show that only ██████% of email addresses matched records showing that those addresses belong to an individual over the age of 21. JUUL has estimated internally that it could not confirm the age of nearly ██████ recipients of its marketing emails.

218. At one point, a JUUL manager estimated that ██████

██

██

██

██

219. In addition, Defendants took no steps to ask those on JUUL's marketing list to complete age-verification because doing so would reveal that age verification had not been required up to that point. Defendants were concerned that this would be "a massive red flag to press."

220. Through at least late 2018, Defendants did not direct the company to cull its marketing lists of potentially underage marketing targets and continued to send them marketing emails, survey invitations, product discounts, and other promotional materials.

221. Because JUUL’s email marketing list contained a large number of underage customers or potential customers, Defendants, through JUUL, have directed a substantial amount of marketing directly to consumers it knows or should know are underage.

G. Defendants’ Malfeasance Provided Them a Windfall When Altria Acquired JUUL

222. Defendants sought to profit off of their unlawful conduct by using their control of JUUL to position the company for acquisition.

223. Almost from JUUL’s founding, “the start-up’s early pitches to potential investors listed selling the business to a big tobacco company as one of the potential ways to cash out.”⁶⁹

224. Defendants ultimately wanted JUUL to be acquired by a tobacco company. Defendants even went so far as to retain an investment bank to help JUUL “establish strong international partnerships with leading tobacco companies . . . to accelerate JUUL.”

225. In a 2016 exchange regarding JUUL’s branding, Defendant Bowen reminded employees that “big tobacco is used to paying high multiples for brands and market share, but not for [REDACTED].” Defendant Bowen recognized that JUUL needed to increase its market share in order to be an attractive candidate for acquisition.

⁶⁹ Creswell & Kaplan, *supra* note 18.

226. By ██████████, all Defendants were involved in discussions for a potential acquisition by a major tobacco company.

227. Those discussions were fruitful. In December 2018, JUUL struck a deal with Altria, one of the world's largest cigarette manufacturers. Altria is the parent company of Philip Morris USA, a traditional tobacco company and original party to the 1998 MSA.

228. As part of the deal, Altria invested \$12.8 billion in JUUL in exchange for a 35% stake in the company and the authority to appoint one-third of JUUL's board. Altria agreed to discontinue its own e-cigarette products and offer JUUL prime shelf-space with Philip Morris's traditional Marlboro cigarette products.

229. Altria's investment reflected a valuation of approximately \$38 billion. Just five months earlier, in July 2018, JUUL's valuation had been \$15 billion.

230. Defendants Pritzker and Valani were the lead negotiators for JUUL on the Altria acquisition. In that capacity, they convinced Altria to offer terms that were highly favorable to individual investors—*i.e.*, Defendants—regardless of what the actual benefit would be to the company's operations. Defendants Pritzker and Valani also persuaded JUUL's then-CEO, Kevin Burns, to accept these terms when he joined the negotiations.

231. The proof of these intentions is in the pudding: Nearly all of Altria's \$12.8 billion investment was paid out to JUUL employees and investors, leaving only about \$200 million on JUUL's balance sheet.⁷⁰

⁷⁰ Etter, *supra* note 16, at 291.

232. As a result of the acquisition, the value of Defendants' investments skyrocketed. Each Defendant was able to cash out via a special dividend and bonus, as well as stock sales that were not available to JUUL's minority shareholders. The cash distributions did not dilute the overall value of Defendants' shares.

233. As a result of the Altria transaction, Defendant Bowen received a cash distribution of approximately \$■■■ million.

234. As a result of the Altria transaction, Defendant Monsees received a cash distribution of approximately \$640 million.

235. As a result of the Altria transaction, Defendant Pritzker's investment resulted in a cash distribution of approximately \$■■■ billion.

236. As a result of the Altria transaction, Defendant Valani's investment resulted in a cash distribution of approximately \$2.6 billion.⁷¹

237. On information and belief, as a result of the Altria transaction, Defendant Huh's investment resulted in a significant cash distribution.

238. In total, Defendants were able to earn nearly \$■■ billion in cash in connection with the 2018 Altria transaction. The next year, more than 35% of North Carolina high schoolers reported using e-cigarettes in the last 30 days.

⁷¹ *Id.*; Nilay Patel, *Juul and the Business of Addiction*, Verge (June 29, 2021), <https://www.theverge.com/22554477/juul-lauren-etter-interview-e-cigarettes-addiction>.

CLAIM FOR RELIEF

Violations of the Unfair or Deceptive Practices Act, N.C. Gen. Stat. § 75-1.1

1. The allegations contained in paragraphs 1-238 are incorporated by reference as if they were set out at length herein.
2. Defendants, in the course of supervising and directing the marketing of JUUL's e-cigarette devices and flavored nicotine inserts, engaged in unfair or deceptive trade practices affecting North Carolina consumers that violated N.C. Gen. Stat. § 75-1.1. These unfair or deceptive omissions, acts, and practices include, but are not limited to, the following:
 - a. Supervising, directing, and encouraging the marketing, selling, and delivering of addictive nicotine-based products to underage consumers, including by:
 - i. Designing JUUL's products, including their flavors, appearance, and chemical composition, in a way that appealed to youthful audiences, knowing that that the audiences included many underage consumers;
 - ii. Pursuing marketing strategies and campaigns across channels that attracted underage consumers;
 - iii. Using ineffective age-verification techniques for internet sales, allowing many underage consumers to easily obtain JUUL products;

- b. Supervising, directing, and encouraging the deception of consumers about the nicotine potency of JUUL's e-cigarette products, including by understating the strength of the nicotine in JUUL's products; and
- c. Supervising, directing, and encouraging the false and misleading claim that JUUL products are FDA-approved cessation devices.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, for the reasons outlined above, Plaintiff requests that the Court:

1. Permanently enjoin Defendants from continuing their course of conduct and from engaging in similar and related conduct in the future;
2. Award civil penalties to Plaintiff pursuant to N.C. Gen. Stat. § 75-15.2;
3. Disgorge the monetary value of Defendants' compensation, bonuses, and financial gains resulting from their unfair or deceptive acts and practices to Plaintiff;
4. Award Plaintiff its costs, including reasonable attorneys' fees, incurred by the investigation and litigation of this matter pursuant to N.C. Gen. Stat. § 75-16.1; and
5. Any and all further legal and equitable relief as the Court deems

Plaintiff is entitled to receive.

This the 16th day of November, 2021.

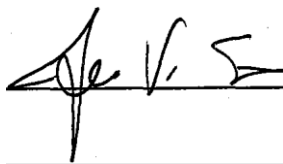
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A handwritten signature in black ink, appearing to read "J. V. Sutton", is enclosed in a thin black rectangular border.

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