

Office of the General Counsel
Walter J. Harvey, General Counsel

SUBJECT: REQUEST AUTHORIZATION FOR GENERAL COUNSEL TO ACCEPT SETTLEMENT OFFER ON BEHALF OF THE SCHOOL BOARD IN THE MATTERS KNOWN AS *In re: JUUL Labs, Inc., Marketing Sales Practices, and Products Liability Litigation* (MDL No. 2913) AND *JUUL Labs Product Cases* (JCCP No. 5052)

The issue of youth use of e-cigarette products has been a continuing concern of the Board and the District for several years. In 2018, the Board approved two agenda items, all sponsored by Dr. Martin Karp, former Board member: H-3 (*Drug Prevention*) at the Board's April 25, 2018 meeting, and H-14 (*Vaping Epidemic*) at its November 20, 2018 meeting. These agenda items sought to increase District staff, parent, and student awareness of e-cigarette products and of the dangers of vaping, along with increased detection methods of its use in schools. The Superintendent, at that time, also focused the District's mitigation efforts through the E(liminate)-cigs Awareness Campaign to increase understanding of the adverse impacts of vaping and encourage students to pledge and affirm their stance against vaping and tobacco products.

As a result of the Board's concern with the effect and impact of vaping on its student population and the overall school environment and after expressing—at its November 13, 2019, Personnel, Student, School, and Community Support School Board Committee meeting—its consensus to exploring the possible filing of a lawsuit against e-cigarette and vaping device manufacturers and distributors, the Board's General Counsel agreed to bring a recommendation to the Board on the matter. Accordingly, at its Board meeting of December 11, 2019, the Board approved Agenda item G-1 (*E-Cigarette Litigation*), authorizing the General Counsel “to retain outside legal counsel to represent and file claim(s) on behalf of the School Board against JUUL Labs, Inc. (JLI) . . .” to represent the Board in a nationwide class action litigation regarding the youth vaping epidemic.

Pursuant to this authority, General Counsel retained a group of South Florida-based law firms, which includes as the primary the law firm, Robbins Geller Rudman & Dowd LLP, to represent the Board in federal court in a Multidistrict Litigation involving JLI. On behalf of the Board, on December 19, 2019, outside counsel filed a class action lawsuit against JLI in the United States District Court for the Northern District of California (San Francisco Division). The Complaint alleged, among other things, that JLI had a role in the youth vaping epidemic. The Complaint was twice amended, with the Second Amended Complaint being filed on November 12, 2020. The Second Amended Complaint contained several counts including counts for violation of Florida's Deceptive and Unfair Trade Practices Act, violation of Racketeer Influenced and Corrupt Organizations Act, public nuisance, negligence, and gross negligence, and sought abatement of the public nuisance, equitable relief, and actual and compensatory damages.

Outside counsel recently notified General Counsel that a confidential global settlement had been reached with JLI to help address youth use of e-cigarettes. The settlement follows three-plus years of hard-fought litigation. The settlement builds on JLI's recent settlements with states and territories. These settlements provided monetary relief to states and territories and required changes to JLI's marketing and other practices, including prohibitions on youth marketing and the sale of flavors not authorized by the FDA, but did not provide direct compensation to anyone. The government entity settlement here will provide resources to school districts, cities, and counties to abate youth nicotine addiction in their communities. Pursuant to the "Government Entity Settlement Agreement" the School Board is eligible to receive a Settlement Offer to resolve its government entity claims against JLI. The settlement does not release claims against Altria Group, Inc., or its related companies that are also defendants in the federal or state litigation. Co-Lead Counsel remain committed to continuing the litigation against Altria.

Co-Lead Counsel for the Multidistrict Litigation believes that resolving the litigation against JLI and its officers and directors through settlement is in the best interests of all plaintiffs. Outside counsel recommends that the Board accept the Settlement Offer as it is in the Board's best interests.

A copy of the Settlement Offer will be provided to the Board under separate confidential cover. This item is presented for the Board's consideration to accept the settlement offer from JLI; to authorize General Counsel to consent on behalf of the School Board to the terms of the settlement and the settlement offer; and to execute the "Government Entity Release of All Claims," and all other necessary documents to effectuate the Settlement Agreement.

RECOMMENDED: That the School Board of Miami-Dade County, Florida, authorize its General Counsel to consent on behalf of the School Board to the terms of the Settlement Agreement and the Settlement Offer, and to execute the "Government Entity Release of All Claims," and all other necessary documents to effectuate the Settlement Agreement in the matters known as *In re: JUUL Labs, Inc., Marketing Sales Practices, and Products Liability Litigation* (MDL No. 2913) and in *JUUL Labs Product Cases* (JCCP No. 5052).