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 8 RIESTERER, AND DAVID GUETTA

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 10 UNITED STATES DISTRICT COURT
 11 CENTRAL DISTRICT OF CALIFORNIA
 12 SOUTHERN DIVISION

13 BRYAN PRINGLE, an individual,
 14 Plaintiff,
 15 v.
 16 WILLIAM ADAMS, JR.; STACY
 FERGUSON; ALLAN PINEDA; and
 17 JAIME GOMEZ, all individually and
 collectively as the music group The
 18 Black Eyed Peas, et al.,
 19 Defendants.

Case No. SACV 10-1656 JST(RZx)
 Hon. Josephine Staton Tucker
 Courtroom 10A

**DECLARATION OF TAL E.
 DICKSTEIN IN SUPPORT OF
 MOTION FOR SUMMARY
 JUDGMENT BY DEFENDANTS
 SHAPIRO, BERNSTEIN & CO,
 INC., FREDERIC RIESTERER AND
 DAVID GUETTA**

 Complaint Filed: October 28, 2010
 Trial Date: February 28, 2012

 Hearing Date: December 19, 2011
 10:00 A.M.

1 I, TAL E. DICKSTEIN, declare as follows:

2 1. I am an attorney associated with the law firm Loeb & Loeb LLP,
3 attorneys for Defendants Shapiro, Bernstein & Co, Inc. (“Shapiro Bernstein”),
4 Frederic Riesterer and David Guetta (collectively “Defendants”) in this action. I am
5 a member in good standing of the Bar of the State of New York and was admitted to
6 practice in this Court *pro hac vice* by Order dated December 21, 2010 (Doc. 69). I
7 have personal knowledge of the facts set forth hereinafter, and I submit this
8 declaration in support of Defendants’ Motion for Summary Judgment, filed
9 concurrently herewith.

10 2. Attached hereto as **Exhibit A** is a true and correct copy of excerpts of
11 Plaintiff’s First Amended Complaint filed in this action on November 19, 2010.

12 3. Attached hereto as **Exhibit B** is a true and correct copy of excerpts of
13 the deposition transcript of William Adams taken in this action on July 25, 2011.

14 4. Attached hereto as **Exhibit C** is a true and correct copy of excerpts of
15 the deposition transcript of Frederic Riesterer taken in this action on June 23, 2011.

16 5. Attached hereto as **Exhibit D** is a true and correct copy of documents
17 produced by co-defendant UMG Recordings, Inc. in this action, bearing Bates
18 numbers P-UMG004309-10.

19 6. Attached hereto as **Exhibit E** is a true and correct copy of excerpts of
20 the deposition transcript of Plaintiff Bryan Pringle taken in this action on August 24,
21 2011.

22 7. Attached hereto as **Exhibit F** is a true and correct copy of email
23 correspondence with Plaintiff’s counsel in July and August 2011 regarding
24 Defendants’ requested inspection of Plaintiff’s computer equipment. Relevant
25 portions of this email correspondence have been highlighted for the Court’s
26 convenience.

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1 8. Attached hereto as **Exhibit G** is a true and correct copy of documents
2 produced by third-party TAXI Music Network (“TAXI”), bearing Bates numbers
3 TAXI 1-11, pursuant to a subpoena served on TAXI by Plaintiff, as well a copy of
4 Plaintiff’s subpoena to TAXI dated June 23, 2011.

5 9. Attached hereto as **Exhibit H** are true and correct copies of Plaintiff’s
6 November 15, 2010 application to register a sound recording and musical
7 composition copyright to “Take a Dive” (Dance Version), a December 10, 2010
8 letter from the United States Copyright Offices denying Plaintiff’s application to
9 register a musical composition copyright to “Take a Dive” (Dance Version), and the
10 Certificate of Registration (Reg. No. SR 659-360) of a sound recording copyright to
11 “Take a Dive” (Dance Version) with an effective date of registration of November
12 15, 2010, all of which were produced by Plaintiff in this action bearing Bates
13 numbers PL0007, PL0033-36 and PL0037-38, respectively.

14 10. Attached hereto as **Exhibit I** is a true and correct copy of excerpts of
15 Plaintiff’s Responses to Defendant Allan Pineda’s First Set of Requests for
16 Admission, dated August 19, 2011.

17 11. Attached hereto as **Exhibit J** is a true and correct copy of a July 24,
18 2010 letter from counsel for co-defendants to counsel for Plaintiff, produced in this
19 action bearing Bates numbers BEP-PR 12-14. Relevant portions of this letter have
20 been highlighted for the Court’s convenience.

21 12. Attached hereto as **Exhibit K** is a true and correct copy of a July 29,
22 2010 email from counsel for Plaintiff to counsel for co-defendants. Relevant
23 portions of this email have been highlighted for the Court’s convenience.

24 13. Attached hereto as **Exhibit L** is a true and correct copy of a letter dated
25 June 6, 2011 from counsel for co-defendants to counsel for Plaintiff. Relevant
26 portions of this email have been highlighted for the Court’s convenience.

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1 14. Attached hereto as **Exhibit M** is a true and correct copy of excerpts of
2 a letter dated July 8, 2011 from counsel for Plaintiff to counsel for co-defendants.
3 Relevant portions of this letter have been highlighted for the Court's convenience.

4 15. Attached hereto as **Exhibit N** is a true and correct copy of a letter dated
5 February 14, 2011 from counsel for co-defendants to counsel for Plaintiff. Relevant
6 portions of this letter have been highlighted for the Court's convenience.

7 16. On November 1, 2011, I participated in a telephonic conference,
8 pursuant to Local Rule 7-3, with Plaintiff's counsel, including Ira Gould of Gould
9 Law Group and Kathleen Koppenhoefer of Miller Canfield LLP, and counsel for co-
10 defendants, regarding Defendants' intention to file the instant motion. During that
11 call, Plaintiff's counsel expressly and unequivocally stated that they were
12 "withdrawing" their claim that Defendants had physically appropriated (i.e.,
13 "sampled") portions of the "Take a Dive" (Dance Version) sound recording. The
14 next day, I sent an email to Plaintiff's counsel attaching a proposed stipulation and
15 order dismissing the sound recording portion of Plaintiff's infringement claim.
16 After receiving no response, I re-sent the proposed stipulation and order to
17 Plaintiff's counsel by email dated November 3, 2011. A true and correct copy of
18 that November 3, 2011 email and the proposed stipulation and order is attached
19 hereto as **Exhibit O**.

20 17. Despite counsel's representation that they would withdraw Plaintiff's
21 sound recording claim, in an email dated November 7, 2011, Plaintiff's counsel
22 refused to sign the proposed stipulation. A true and correct copy of that November
23 7, 2011 email is attached hereto as **Exhibit P**. Later that day, Plaintiff's counsel
24 served an amended response to co-defendant Stacy Ferguson's Interrogatory No. 18,
25 stating that "Plaintiff is not seeking to recover for a physical appropriation of Take a
26 Dive (Dance Version) at this time" but "reserves the right to seek recovery for
27 physical appropriation of Take a Dive should Defendants produce evidence of said
28 appropriation; investigation continues." A true and correct copy of excerpts of

1 Plaintiff's Amended Response to Defendant Stacy Ferguson's First Set of
2 Interrogatories, dated November 7, 2011, are attached hereto as **Exhibit Q**.
3 Relevant portions of those Interrogatory Responses have been highlighted for the
4 Court's convenience.

5 I declare under penalty of perjury that the foregoing is true and correct.

6 Executed this 17th day of November, 2011.

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9 TAL E. DICKSTEIN

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