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8 *Attorneys for Plaintiff*

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 WILLIAM THIEL, individually and on
13 behalf of all others similarly situated,

Case No. 3:16-cv-07083

14 Plaintiffs,

15 v.

16 TUBEMOGUL, INC.; BRETT WILSON;
17 AJAY CHOPRA; RUSELL FRADIN;
18 JACK LAZAR; PAUL LEVINE; DAVIT
19 TOTH; ADOBE SYSTEMS
20 INCORPORATED; and TIGER
21 ACQUISITION CORPORATION,

22 Defendants.

23 **NOTICE OF DISMISSAL AND ~~[PROPOSED]~~ ORDER**
CLOSING AND TERMINATING THE ACTIONS

24 **WHEREAS**, on November 10, 2016, TubeMogul, Inc. (“TubeMogul”)
25 announced that it had entered into an Agreement and Plan of Merger, dated the same
26 day (the “Merger Agreement”), pursuant to which Adobe would acquire TubeMogul
27

28 **NOTICE OF DISMISSAL AND [PROPOSED] ORDER**
CLOSING AND TERMINATING THE ACTIONS

1 in a two-step transaction for \$14.00 in cash for each outstanding share of TubeMogul
2 in a transaction valued at approximately \$540 million (the “Tender Offer” or
3 “Proposed Transaction”);

4
5 **WHEREAS**, on November 18, 2016, TubeMogul filed its
6 Solicitation/Recommendation Statement on Schedule 14D-9 (the “Recommendation
7 Statement”) with the Securities and Exchange Commission (“SEC”) in support of the
8 Proposed Transaction;

9
10 **WHEREAS**, on December 5, 2016, William Thiel filed a putative class action
11 complaint in the Superior Court of the State of California for Alameda County,
12 captioned *Thiel v. TubeMogul, Inc.*, Case No. RG16841232, subsequently removed to
13 the United States District Court for the Northern District of California, captioned *Thiel*
14 *v. TubeMogul, Inc.*, Case No. 3:16-cv-07083 (the “Thiel Action”);

15
16
17 **WHEREAS**, on December 6, 2016, Bahadir Yavuz filed a putative class action
18 complaint in the United States District Court for the Northern District of California,
19 captioned *Yavuz v. TubeMogul, Inc.*, Case No. 4:16-cv-06996 (the “Yavuz Action,”
20 together with the Thiel Action, the “Actions”);

21
22 **WHEREAS**, on December 8 and 13, 2016, the Company filed with the SEC
23 additional disclosures that amended and supplemented the Company’s
24 Recommendation Statement (the “Supplemental Disclosures”) and that, among other
25 things, mooted the disclosure claims in the Actions;

1 **WHEREAS**, Plaintiffs believe that the Supplemental Disclosures addressed
2 Plaintiffs' disclosure allegations and claims and entitle them to recover an award of
3 attorneys' fees and expenses;
4

5 **WHEREAS**, based on the proceedings to date, Plaintiffs have determined that
6 certain claims asserted in the Actions have been mooted and the remaining claims are
7 so unlikely to be successful as to warrant dismissal;
8

9 **WHEREAS**, Defendants deny the allegations in the Actions, including, but not
10 limited to, the disclosure allegations and expressly maintain that they acted diligently
11 and scrupulously, and complied with all applicable fiduciary, disclosure, and other
12 legal duties;
13

14 **WHEREAS**, Defendants dispute that Plaintiffs are entitled to an award of
15 attorneys' fees and expenses or any other relief;
16

17 **WHEREAS**, the Plaintiffs in both Actions, on behalf of themselves and not on
18 behalf of any class of shareholders, and the Defendants to the Actions have agreed to
19 settle their disputes pursuant to a confidential settlement agreement;
20

21 **WHEREAS**, it is the intention of counsel for Plaintiff in the Action to dismiss
22 the Action with prejudice as to Plaintiffs;
23

24 **WHEREAS**, no class has been certified in the Actions;

25 There being no further issue for the Court to consider, the Court, at the request
26 of Plaintiffs, hereby issues the following order:
27
28

