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UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

U.S. DISTRICT COURT  
PORTLAND, MAINE  
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Case No. 2:16-cv-00230-GZS

\*\*\*FILED UNDER SEAL\*\*\*

UNITED STATES OF AMERICA, *ex rel.* )  
ANDREW PATRICK, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
PURE COLLECTION LTD., and )  
SAMANTHA HARRISON, )  
 )  
Defendants. )

**UNITED STATES' COMPLAINT-IN-INTERVENTION**

The United States of America (the "United States" or "Government"), on behalf of its agency U.S. Customs and Border Protection ("CBP" or "Customs"), hereby files the instant Complaint-in-Intervention<sup>1</sup> against Pure Collection Ltd. ("Pure"), as well as Pure's CEO Samantha Harrison individually, and in support thereof alleges as follows.

**I. Summary of Action**

1. From 2010 through 2017, Pure and its CEO, Samantha Harrison, improperly and knowingly concealed and avoided Customs duties applicable to the knitwear and other luxury items Pure regularly shipped from the United Kingdom directly to its thousands of U.S. customers, including those in Maine. The Pure shipments at issue in this action were subject to CBP's assessment of import duties of up to 32.0% per item, depending on merchandise type and value, upon entry into the United States. Each customer was obligated to pay the duty at his or her local post office in order to retrieve the merchandise. Yet Pure improperly avoided and concealed these duty obligations from CBP, as well as from its own U.S. customers.

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<sup>1</sup> The United States has elected to intervene pursuant to 31 U.S.C. §§ 3730(c)(1) and 3731(c), and to prosecute the action earlier brought by *qui tam* Relator Andrew Patrick. See Notice of Intervention, dated July 14, 2017.

2. Improperly avoiding duties was a business strategy central to Pure's expansion into the U.S. market. Pure and Harrison predicated the development of Pure's U.S. customer base on circumventing Customs. Pure's website, in fact, advertised to current and prospective U.S. customers, "we do our utmost to prevent customs fees."

3. Pure's and Harrison's reasons for doing so were two-fold. First, by finding a way around CBP's imposition of duties, Pure placed itself in the same favorable domestic pricing position as its American competitors. Pure and Harrison did this in direct contravention of the United States' statutory and regulatory import/export framework. Second, improperly avoiding duties protected Pure's bottom line. Pure marketed to U.S. customers that it would reimburse the full costs of any duties they ultimately paid on their orders. Finding a way around Customs duties freed Pure from making good on this reimbursement promise to its U.S. customers. Thus, improperly avoiding the imposition of duties on its shipments to U.S. customers improved the profitability of Pure's business and likewise inured to the financial benefit of Harrison.

4. Pure's mechanism for improperly avoiding duties was simple. Harrison and other management-level personnel at Pure knew that Customs generally did not charge duties for shipments falling below a certain *de minimis* value. From 2010 through March 9, 2016, for example, packages containing merchandise having an aggregate fair retail value of \$200 or less could lawfully enter the United States duty free. From March 10, 2016, to the present, the same rule applied with an increased limit of \$800.

5. Knowing this, Pure and Harrison "split" U.S. customers' aggregate single orders exceeding \$200 (and later \$800) into multiple different parcels in order to manipulate and evade Customs' applicable *de minimis* value limits. Splitting shipments resulted in Pure and Harrison improperly and artificially valuing separate parcels at below the *de minimis* limit,

notwithstanding that the aggregate value of the items comprising the original, single order exceeded that limit. After “splitting” each such order, the multiple parcels were shipped separately to the U.S. customers. Consequently, these multiple separate parcels entered the United States duty free because of their ostensible individual *de minimis* value. All the while, however, the aggregate value of each original single order and the merchandise comprising it actually exceeded the *de minimis* value exemption and carried a duty obligation.

6. The \$200/\$800 exemption does not apply to single orders “sent separately for the express purpose of securing free entry therefor or of avoiding compliance with any pertinent law or regulation.” 19 C.F.R. § 10.151. Pure and Harrison thus acted in direct violation of Customs’ laws and regulations barring the very splitting in which they systematically engaged over the course of many years. Pure and Harrison knowingly and repeatedly acted to evade and improperly avoid, conceal, and/or decrease Customs duties. And they succeeded.

7. Pure and Harrison knew that they were abusing the Customs process and improperly concealing and avoiding the duty obligations applicable to U.S. shipments. Internal Pure communications routinely acknowledged that splitting was “done in order to make sure the customer is not charged any customs duty on their parcel.” In fact, Pure’s staff were trained specifically that CBP charged duties for parcels exceeding the *de minimis* value exemption and that they “therefore need[ed] to split the shipping of orders over this value.” Staff were further instructed “not [to] tell customers that this is to avoid Customs charges[,] instead say[] it is as individual items may come from different warehouses.” Yet Pure had only one warehouse.

8. By early March 2013, Harrison told Nicholas Falkingham, Pure’s Executive Vice Chairman, majority owner, and co-founder, of her concerns that “we are still splitting parcels and avoiding duty.” She told Falkingham, “I am nervous about the potential duty implications this

may have for us. . . . [because] US customs could come after us at any point.” Pure nevertheless continued to split its parcels from March 2013 onward.

9. As recently as October 2016, Harrison and Falkingham were aware of and involved in Pure’s splitting orders to below the newly-increased \$800 *de minimis* value threshold to avoid Customs’ imposition of duties. Pure’s third-party vendor likewise observed to Harrison, “I can see that you are splitting up shipments that are over \$800 USD into 2 or 3 shipments in order to avoid duty.” Harrison knew that “if the order is over \$800, we are splitting.”

10. The instant action therefore seeks treble damages and civil penalties arising from Pure’s reverse false claims from 2010 through 2017 pursuant to the False Claims Act, 31 U.S.C. § 3729(a)(1)(G).

## **II. Jurisdiction and Venue**

11. This Court has jurisdiction over the claims brought under the False Claims Act pursuant to 28 U.S.C. §§ 1331 and 1345.

12. Moreover, the Court has personal jurisdiction over Pure and Harrison pursuant to 31 U.S.C. § 3732(a) both because they transacted business in this District and because their acts proscribed under 31 U.S.C. § 3729 occurred in this District.

13. Specific jurisdiction lies against Pure and Harrison. As pled herein, the instant matter both arises out of and relates to Defendants’ contacts with customers in the District of Maine and throughout the United States. The instant suit concerns Pure’s and Harrison’s knowing and systematic placement of improperly split shipments into the American stream of commerce. Their activities thus were not only continuous, but also give rise to the liabilities sued on.

14. Venue is similarly proper in this District under 31 U.S.C. § 3732(a) and 28 U.S.C. §§ 1391(b)-(c), because Pure and Harrison transacted business in this District and/or because a substantial part of the events or omissions giving rise to the claims occurred in this District.

15. Approximately a quarter of Pure's U.S. customers reside in the northeastern United States. Every year, from 2010 through early 2016, Pure consistently shipped its merchandise to customers in Maine.

16. At issue in this lawsuit are at least 25 orders Pure shipped to Maine-based customers in 2010, including those in Auburn, Biddeford, Brooksville, Brunswick, Cumberland Foreside, East Boothbay, Falmouth, Freeport, Gorham, Hallowell, Kennebunk, Kennebunkport, Lewiston, Mexico, Orono, Portland, Southwest Harbor, Westbrook, Yarmouth, and York.

17. At issue in this lawsuit are at least 80 orders Pure shipped to Maine-based customers in 2011, including those in Arundel, Auburn, Augusta, Bar Harbor, Bath, Berwick, Biddeford, Blue Hill, Boothbay Harbor, Brooksville, Brunswick, Camden, Canaan, Cape Elizabeth, Cape Neddick, Casco, Chebeague Island, Columbia Falls, Cumberland Foreside, Cumberland, Cumberland Center, Fairfield, Falmouth, Fryeburg, Gorham, Hallowell, Hancock, Harpswell, Hulls Cove, Kennebunk, Kennebunkport, Kittery Point, Machias, Mount Desert Island, North Yarmouth, Orono, Penobscot, Phippsburg, Portland, Rockland, Rockport, Scarborough, Seal Harbor, South Berwick, Stockton Springs, Topsham, Windham, Winthrop, Wiscasset, Yarmouth, York, and York Beach.

18. At issue in this lawsuit are at least 10 orders Pure shipped to Maine-based customers in 2012, including those in Bath, Boothbay, Cape Elizabeth, Chebeague Island, Durham, East Blue Hill, Freeport, North Yarmouth, Rockland, and York.

19. At issue in this lawsuit are at least 25 orders Pure shipped to Maine-based customers in 2013, including those in Alna, Bath, Biddeford Pool, Brunswick, Camden, Cape Elizabeth, Cumberland Foreside, Falmouth, Freeport, Gorham, Hallowell, Hulls Cove, Kennebunk, Kittery, Monroe, Peaks Island, Sargentville, and South Portland.

20. At issue in this lawsuit are at least 13 orders Pure shipped to Maine-based customers in 2014, including those in Blue Hill, Cape Elizabeth, Cape Neddick, Falmouth, Machias, Portland, Southwest Harbor, and Yarmouth.

21. At issue in this lawsuit are at least 7 orders Pure shipped to Maine-based customers in 2015, including those in Bangor, Bath, Camden, Kennebunkport, Otisfield, Rockport, and Sorrento.

22. At issue in this lawsuit are at least 2 orders Pure shipped to Maine-based customers in 2016, including those in Eliot and Cape Elizabeth.

23. More broadly, Pure transacted with and marketed to U.S. customers across all fifty states in a continuous, systematic, and highly targeted manner.

24. Pure specifically trained its staff on “DEALING WITH AMERICAN (US) CUSTOMERS.” Its 2011 internal training materials stressed, the “reality is that our American customers form a large % of our customer base and are often loyal and regular returners.” Because Pure viewed “Americans [to be] a nation of mail order shoppers,” it trained its staff on “the slight differences or things to be aware of when dealing with our customers across The Pond.”

25. Pure developed a “US Customer Profile,” describing its typical U.S. customer as follows:

She lives predominantly in New England, Mid-Atlantic and California and is more likely to be married. She reads local newspapers and The New

York Times. She is likely to have more classic tastes than our UK customer. Her favorite shops include Ann Taylor, Talbots, Neiman Marcus, Eileen Fisher, J Crew, Garnet Hill, Anthropologie, Peruvian Connection and Saks.

26. For internet-based orders, Pure established two separate “offer codes” to provide discounts on certain merchandise, “one for the US and one [for] the rest of the world.”

27. Pure offered U.S. customers other special accommodations, such as allowing U.S. customers 60 days to return post-holiday purchases, rather than the normal 30 days.

28. Internal Pure marketing materials identify its “main and most effective form of recruiting new customers [as] via a direct mail” of a “catalogue directly into a customer’s home in the hope that she will buy.” Pure engaged in this direct marketing strategy by sending U.S. customers thousands of catalogues. Requests for a catalogue made by U.S. customers were “fulfilled in the US so that the catalogue gets to the customer much quicker,” because it was “proven that the quicker a customer receives their catalogue from point of requesting, the more likely they are to place an order.”

29. American sales were also pursued by Pure through its “renting” of potential U.S. customers’ contact information from other high-end catalogue companies as well as other large data companies.

30. Pure maintained a separate internet page ([www.us.purecollection.com](http://www.us.purecollection.com)) to sell its merchandise to U.S. customers, in addition to its mail order catalogues. It also recruited new U.S. customers using advertising banners on other web sites.

31. Every Pure catalogue sent to U.S. customers from 2010 through 2016 stated under a heading called “CUSTOMS FEES” that “[a]lthough we do our best to prevent customs fees, some parcels may be subject to import duties and taxes, which are levied by US customs at the

time the shipment arrives. If this happens to your order we will reimburse you in full upon receipt of proof of payment.”

32. From 2010 through 2016, the value in United States Dollars of merchandise Pure sent to U.S. customers totaled \$9,658,637 in 2010; \$16,270,384 in 2011; \$17,983,570 in 2012; \$24,953,916 in 2013; \$21,347,675 in 2014; \$20,147,700 in 2015; and \$20,446,088 in 2016.

33. Over the same period, the yearly totals in United States Dollars generated from Pure’s sales of merchandise sent to U.S. customers via standard delivery methods such as the U.S. Postal Service and Royal Mail were \$9,658,550 in 2010; \$15,559,916 in 2011; \$15,929,785 in 2012; \$22,078,478 in 2013; \$20,112,506 in 2014; \$19,682,135 in 2015; and \$18,425,639 in 2016.

### **III. Parties**

34. Plaintiff is the United States, acting on behalf of CBP.

35. Defendant Pure is a private corporation registered in England and headquartered at Mowbray House, Mowbray Square, Harrogate, West Yorkshire, HG1 5AU, England. Pure is a retailer of premium quality knitwear, including cashmere and other woven products, and transacts extensively in the United States.

36. Defendant Samantha Harrison was Pure’s Head of Operations from 2010 through 2016. In 2016, she became Pure’s Chief Executive Officer, and continues in that role currently. She is a citizen and resident of the United Kingdom.



#### **IV. Applicable Law**

##### **A. The False Claims Act's "Reverse" False Claims Provision**

37. The purpose of the False Claims Act is to "enhance the Government's ability to recover losses as a result of fraud against the Government." S. Rep. No. 99-345, at 1 (1986), available at 1986 U.S.C.C.A.N. 5266.

38. Under the False Claims Act, the Government is entitled to recover three times the amount of damages sustained because of a defendant's violation of the statute and, for each act by a defendant violating the statute, a civil penalty. For violations that occurred before November 2, 2015, a civil penalty for each violation must be not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Adjustment Act of 1990, 28 U.S.C. § 2461 note; Pub. Law No. 104-410. *See* 31 U.S.C. § 3729(a). For violations occurring after November 2, 2015, the False Claims Act imposes a penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Bipartisan Budget Act of 2015. *See* Pub. Law. No. 114-74, § 701, 129 Stat. 584, 599 (requiring all civil statutory penalties, including those set forth in the False Claims Act, to be adjusted annually for inflation); 28 C.F.R. § 85.5 (identifying civil statutory penalty amounts currently in effect, including Congressionally-mandated annual inflation adjustments).

39. The Fraud Enforcement and Recovery Act of 2009 amendments to the False Claims Act provide for liability where a defendant "knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government[.]" 31 U.S.C. § 3729(a)(1)(G). This provision of the False Claims Act encompasses what are generally known as "reverse false claims. A defendant is further subject to reverse false claims liability where it "knowingly conceals or knowingly and

improperly avoids or decreases an obligation to pay or transmit money or property to the Government.” 31 U.S.C. § 3729(a)(1)(G).

40. “Knowing” and “knowingly” mean that a defendant had actual knowledge of or acted in deliberate ignorance or reckless disregard of information relating to the truth or falsity of its false records or statements. 31 U.S.C. § 3729(b)(1)(A). Proof that a defendant had specific intent to defraud the Government is not required. *Id.* § 3729(b)(1)(B). The terms “knowing” and “knowingly” used in this Complaint-in-Intervention have the meaning ascribed to them by the False Claims Act, as do the terms “knowledge,” “knows” or “knew.”

41. “Obligation” is defined as “an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.” 31 U.S.C. § 3729(b)(3).

42. Congress promulgated this definition to reflect its long-held view that an “obligation” under the False Claims Act’s reverse false claims provision, 31 U.S.C. § 3729(a)(1)(G), encompasses non-fixed and contingent duties to pay or repay monies to the Government. S. Rep. 111-10, 14, 2009 U.S.C.C.A.N. 430, 441.

## **B. Importing and Customs Duties in the Context of the False Claims Act**

### **1. The import process**

43. CBP inspects all merchandise imported by U.S. customers from any foreign country into the United States.

44. Each importation requires an “entry,” by which the merchandise, its description, and its value is declared, unless specifically excepted. 19 C.F.R. § 141.4(a).

45. Customs generally classifies entries as “formal” (for goods valued over \$2,500), “informal” (generally applicable for goods valued under \$2,500), and “Section 321,” which is a type of informal entry reserved for low value goods imported into the United States.

46. Prior to March 2016, a “Section 321” entry was reserved for goods below \$200 in value, which were generally cleared through Customs duty free without any additional paperwork prepared by the importer.

47. Since March 2016, “Section 321” entry has been available for goods below \$800 in value.

## **2. Customs duties**

48. Most goods imported into the United States are subject to duties depending on merchandise type and value.

49. Duty rates are obligations that arise variously from the Tariff Act of 1930, the Trade Facilitation and Trade Enforcement Act of 2015, CBP regulations, and the Harmonized Tariff Schedule maintained by the U.S. International Trade Commission.

50. Customs regulations require duties on entries of imported merchandise to be computed and ascertained (*i.e.*, “liquidated”). 19 C.F.R. §§ 159.1-2; *see also* § 159.0. As such, an existing, non-contingent and nondiscretionary liability for customs duties exists by law and regulation.

51. Duties on imports are generally based on the appraised value of the imported goods as determined on liquidation. *See* 19 U.S.C. § 1503; Harmonized Tariff Schedule of the United States (2017) (codified at 19 U.S.C. § 1202), *available at* <https://www.usitc.gov/tata/hts/index.htm>.

52. The liability to pay duties arises immediately and automatically upon the importation of goods into the United States. 19 C.F.R. §§ 141.1(a)-(b)(1).

53. The importer of record is responsible for payment of such duties at the time of delivery. *Id.*

54. There is an exemption from this general rule, intended to balance the revenue obtained through duties with the expense and inconvenience to the Government of applying them. That exemption, found at 19 C.F.R. § 145.31, makes duty-free:

packages containing merchandise having an aggregate fair retail value in the country of shipment of not over \$200 [\$800 from March 10, 2016, onward], subject to the requirements set forth in §§ 10.151 and 10.153 of this chapter.

55. Importantly, however, this “*de minimis* value exemption” does not apply when “the shipment is one of several lots covered by a single order or contract . . . sent separately for the express purpose of securing free entry therefor or of avoiding compliance with any pertinent law or regulation.” 19 C.F.R. § 10.151. *See also* 19 U.S.C. § 1321(a)(2)(C) (“The privilege of [articles admitted free of duty] shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit of [admission free of duty]”). Rather, “the shipment of merchandise [must be] imported by one person on one day[.]” 19 C.F.R. § 10.151.

56. As such, Customs laws and regulations expressly prohibit the “splitting” of parcels into separate shipments to values below the *de minimis* value exemption in order to avoid Customs duties.

57. Merchandise may be shipped through the international postal service. Such parcels are forwarded upon arrival in the United States to a CBP mail facility for clearance. If the item is less than \$2,500 in value and not otherwise restricted, a CBP official will assess the proper duty and release it for delivery. 19 C.F.R. § 143.21(a).

58. Where the value exceeds \$200 (and, later, \$800), the U.S. customer may be required to pay duty. For a personal import of apparel or clothing, for example, the duty imposed could be as high as 32.0% of the fair market value of the merchandise. If any duty is owed, CBP will charge a processing fee for clearing the package and the duty and processing fee will normally be paid at the local post office where the package is forwarded. In such instances where CBP has assessed a duty, the U.S. customer must pay it in order to receive the imported merchandise.

59. However, parcels valued at below the \$200 (and, later, \$800) *de minimis* value exemption of 19 U.S.C. § 1321(a)(2)(C) and 19 C.F.R. § 145.31 are eligible for Section 321 non-dutiable release. CBP does not generally impose duties on such merchandise.

60. As a result, merchandise ordered by U.S. customers at below the *de minimis* value is not held at the customer's local post office pending payment of a duty. Rather, such merchandise is delivered to the customer directly, without the imposition of any duty at all.

61. Correspondingly, shipments split to values below the *de minimis* value exemption avoid the assessment of a duty.

### **3. Avoiding custom duties results in reverse false claims**

62. It is a reverse false claim for a defendant to knowingly conceal a basis for and/or avoid the imposition of duties arising from the importation of merchandise into the United States. In such instances where duties are owed and not paid, foreign merchandise is released into the stream of commerce in the United States improperly. This results directly from the avoidance and non-payment of the Customs duty obligation.

63. Congress itself “believe[d] that customs duties clearly fall within the new definition of the term ‘obligation’ absent an express reference and any such specific language would be unnecessary.” S. Rep. 111-10, 14, 2009 U.S.C.C.A.N. 430, 441.

64. Reverse false claims liability in such circumstances is consistent with the larger import/export regulatory scheme created by Congress. Because of the practical impossibility of inspecting every shipment entering the United States, a defendant may have an incentive to circumvent United States customs laws and regulations on the assumption that the defendant’s conduct will not be discovered. In doing so, a defendant avoids its obligations to provide the Government with such information as is necessary to enable it to determine whether and in what amount duties are owed. Where a defendant believes the value of bringing goods into the country exceeds the risk that the deception will be discovered, it may continue to act improperly, since the chance that the defendant’s conduct will be discovered and duties owed might still result in a net gain to the company.

65. Reverse false claims liability changes that value proposition because a finding of improper avoidance of customs duties carries the possibility of treble damages and substantial additional civil penalties.

66. The False Claims Act, its legislative history, and the policy rationales underlying the United States’ importation regulatory scheme therefore establish that reverse false claims liability results from avoiding duties arising from the importation of merchandise into the United States.

67. In sum, United States customs law imposes an established duty to pay duties. Avoiding, decreasing, or concealing this obligation to pay constitutes a reverse false claim.

## V. Factual Background

### **A. In 2010 and 2011, Pure Splits its U.S. Customers' Orders Into Parcels Valued Below \$200 to Avoid Duties**

#### **1. Pure trains its staff to improperly avoid Customs duties by splitting parcels below \$200**

68. Pure's 2010-2011 U.S. Training Guide educated the company's customer service staff about the importance of "Splitting Parcels."

69. Staff learned that "US Customs charges duties for parcels with a value of over \$200." Pure personnel "therefore need[ed] to split the shipping of orders over this value." Pure's internal guidance instructed staff to pick separate shipping dates for the split items separated by at least a day.

70. Ensuring that its staff split orders to below \$200 was a continuing point of emphasis at Pure. On September 7, 2010, Suzi Stow, Pure's Customer Services Team Manager at the time, inquired in an email to Harrison whether they could generate electronic reports covering high value internet orders placed by U.S. customers. Stow informed Harrison and other Pure colleagues, "we can't continue to check every US web order throughout the day and night but ideally would like to catch high value orders to split."

71. Stow emailed Customer Service personnel on March 22, 2011, to circulate additional guidance on Pure's splitting strategy for avoiding Customs duties.

72. She provided all Customer Service Supervisors a document entitled "US Charges guidelines," which reflected recent updates she had made to Pure's shipping process to U.S. customers. The guidelines emphasized that "[t]he US government may charge import Tax/customs charges for a parcel with a value of over \$200 hence the importance of splitting orders to keep Parcels as close to the \$200 value as possible."

73. Pure's internal manual regarding "DEALING WITH AMERICAN (US)

CUSTOMERS," also contained the following instructions:

Customs charges

Our US customers may be charged customs charges on parcels with a value over \$200. This is generally 20% of the value of the parcel. If this happens CSAs can refund customs charges. To try to prevent this happening we split orders into parcels of a value just below \$200.

**Splitting Orders into Separate Parcels**

US Customs charges duties for parcels with a value of over \$200. We therefore need to split the shipping of orders over this value into separate parcels. Select an item and choose a separate shipping date for this item. Ensure shipping dates are 2 days apart. Inform your customer what you are planning to do. It is also great customer service for you to ask the customer if she would like any items in particular putting together in parcels, for example to make up an outfit like cardigan and camisole.

**How do I split the order, when it has a value of over \$200, to avoid Customs charges?**

We ask you to use you own judgement and realise that we will not be able to get every package below \$200.

**US Customs Refund Procedure**

Firstly apologise to the customer and explain that we do all we can to avoid customs charges however occasionally, charges are applied.

74. The manual concluded, "[b]y splitting the order into separate parcels with values of below or just over \$200 this should reduce the likelihood of the Customer incurring Customs fees."

75. The Pure personnel who processed U.S. customers' orders put their training to use.

76. For example, in an email dated April 6, 2011, Fiona Dean, a Customer Service staffer, directed colleagues in Pure's Order Processing department to process a "high value order" which she had assured a customer in Dallas, Texas, would be "split for customs." The



order (#139147) totaled \$1,100 and comprised ten pashmina items. Dean split the order into three parcels, later shipped to the U.S. customer on April 7 and 8, 2011, to avoid the \$200 threshold.

**2. Contemporaneous with communicating with CBP, Pure continues to improperly avoid Customs duties by splitting parcels below \$200**

77. In April 2011, a representative from CBP contacted Pure. However, CBP was not aware of Pure's practice of splitting parcels to fall below \$200. Rather, it contacted Pure to inform Pure that its labeling declarations did not adequately describe the contents of shipments to U.S. customers.

78. Monica Slater, one of Pure's Customer Service Team Managers at the time, emailed her colleagues that Customs

said that our declarations labels need to be more specific. It is not sufficient to say Cashmere and then put silks and leather etc inside. All of these things incur a different rate of tax. In fact silk and leather for instance are at a lower rate of tax than cashmere so if the bags aren't opened then customers might be being charged too much tax.

During the same conversation, a Customs representative confirmed with Slater that duties charged for parcels valued above \$200 were assessed to the entire monetary amount, rather than just the excess over \$200.

79. Another Customer Service Team Manager, Sherry Care, responded to Slater, "It does look as though our parcels are coming under scrutiny doesn't it?"

80. Several days after having direct contact with CBP about duties charged for parcels valued above \$200, Stow emailed a colleague in Customer Services, Peter Jauncey, regarding U.S. customer internet orders, "[w]e need to check the web orders at least twice during the day."

81. Stow put a finer point on her email by specifying, "by check, I mean split the orders into \$200 parcel totals."

82. Jauncey confirmed that every time Pure authorized U.S. orders “we check the details displayed to see if any orders exceed the customs limit on the batch” and “[i]f any do we split these orders.”

83. Pure’s Customer Care Team listserv address emailed Care on May 4, 2011, regarding the need for “a more rigorous procedure [to be] put in place” to address U.S. internet orders that were mistakenly *not* being split. Care forwarded the message to Stow and other Pure Customer Care colleagues. Going forward, Care’s solution “[t]o try to make sure as many [U.S. internet orders] were split as possible” was to email Pure’s Order Processing department on a daily basis “to state which order number we reached before printing that batch” because “orders must be split as close to \$200 as possible.”

84. During this same timeframe when Pure personnel were internally directing the unlawful splitting of shipments to avoid U.S. customers incurring duties, Pure continued corresponding directly with CBP with the purported goal of abiding by Customs laws and regulations.

85. With respect to the labeling of Pure’s parcels, Care emailed the Customs representative on May 5, 2011, seeking “to set up a conference call next week . . . to discuss the way we can make the process easier and transparent so we are abiding by customs regulations when we send our parcels.”

86. The conference call between Pure and the Customs representative took place on May 11, 2011. Care emailed Harrison a summary of the conference call that same day.

87. Care told Harrison that CBP was happy that Pure was now placing an invoice in a clear plastic envelop on the outside of each parcel containing a description of its contents and value. The Customs representative

confirmed that any parcels over \$200 are pulled off their conveyor belt to be opened and Paul [Nice, head of Pure's IT department] and Sam [Harrison] have confirmed that they are working towards putting a shortened version of the product description onto the actual label itself. [The Customs representative] will be happy as long as it just lists the product mix ie cashmere, silk, leather etc with the value and the total value.

88. A June 9, 2011 email from CBP to Stow reiterated that "[a]ny items that are purchased outside the U.S. and imported can be assessed duty depending on commodity and value. Each item or type of items may fall under a different tariff number therefore having different duty rates."

**3. Pure strives to adhere more effectively to its improper practice of splitting parcels below \$200**

89. In June 2011, Care had directed Alison Stone, who was then employed as a trainer for Pure's Customer Service staff, to come up with a script to provide to U.S. customers who contacted Pure to inquire about why their orders arrived in multiple parcels.

90. Stone replied in an email asking whether Care was comfortable with the following message:

Colleagues

**US orders - splitting in to multi-parcels**

As you are aware, when taking larger orders from US customer we split the order into different parcels.

We have previously given a number of explanations for this but could you please note that, with immediate effect, we simply advise the customer that their order will be split into different parcels due to the size of the order and that we may also be fulfilling their order from different UK warehouses.

91. For the entirety of its existence, however, Pure shipped from a single warehouse in Knaresborough, United Kingdom.

92. Care accepted Stone's suggestion, but further requested that she "add in something along the lines of 'please do not at any time advise customers that we do this for customs reasons.'"

93. Discussions at Pure continued throughout the summer of 2011 about how best to ensure that orders above \$200 were split into separate parcels to avoid Customs duties.

94. Internal Pure documents show that Customer Service staff monitored U.S. orders daily to "keep[] a look out for persistent offenders" who failed to split shipments to avoid U.S. Customs duties."

95. Although Customer Service staff at Pure were "splitting the US parcels routinely - it [was] the few that [were] not split which are slipping through" who were a concern to Pure.

96. Such "normal orders," *i.e.*, those which were *not* unlawfully split, were such a concern for Pure that a "US orders over \$200 report tab" was made available to employees on Pure's intranet website to check orders made the previous day to see whether any had "slipped through."

97. For the U.S. orders that "slipped through," Harrison explained to Customer Service staff in a June 15, 2011 email that "[w]e can of course identify those advisors who are not splitting and we need to be feeding back to them as part of a refresher exercise to minimise this issue."

98. Yet lawful U.S. orders continued to slip through. On July 4, 2011, Care emailed her Customer Services team, "Guys, Order processing are still finding US orders over \$200 which haven't been split so please take care and ensure they are for future orders especially as we should be busy on US this week with the sale landing tomorrow."

99. An August 2011 “Weekly Update” distributed to Pure’s Customer Service staff included the bullet point, “Please make sure you split all US orders to \$200 as closely to this figure as possible.”

100. By late August 2011, Pure had made gains in ensuring that its U.S. orders totaling over \$200 were more uniformly split to improperly avoid U.S. Customs whenever possible.

101. After meeting with Pure’s order packing personnel on August 24, 2011, Stone drafted minutes memorializing the discussion:

Splitting orders

Packers are aware that US orders should be split once the order total goes much over \$200 (circa £220 max). Reminder: We do not tell customers that this is to avoid Customs charges instead saying it is as individual items may come from different warehouses. CSAs can split US orders into separate parcels at point of sale by delaying shipment. US web orders are sent through to the Customer Care team daily for them to check and split as necessary. Finally, Order Processing check orders again to try to retrieve any other orders that still require splitting. Packers have been asked to check this prior to completing their orders.

102. An internal manual entitled, “How to Split USA orders Over \$200,” was also developed for and consulted by Pure Customer Service staff.

103. The document offered step-by-step guidance detailing how to split orders within the company’s order processing systems. As the document itself stated, “USA orders need to be split at interval during the evening, this is done in order to make sure the customer is not charged any customs duty on their parcel.”

104. Pure’s “How to Split USA orders Over \$200” directed as follows:

Now your seeing the outstanding orders to be checked, click on the order and [the system] will take you straight into the order, ready to split. Once you have double clicked you are now in the order, please split the parcel, by selecting the item.

Click on the schedule shipment(the calendar) and select a date one or two days in front. Only split the order into no more than three parcels. Ideally

the order needs to be split so there is not a parcel being sent which is over \$200.

Once you have split the parcels on orders until 02.00am, please make sure the team managers and order processing are advised of the last number checked.

105. Likewise, separate 2011 guidance to Pure's Order Processing staff directed that for "US cards- the maximum dispatch value would be \$200. If any orders exceed this value, the order would be checked and split before charging."

106. Pure's "current position on order splitting" was reiterated to its staff via a September 21, 2011 email sent by Slater, which was then forwarded to Harrison:

**Phone orders** need to be split to under \$200 per parcel. We need to really get hot on this and challenge our team members who are not remembering to split. Kim can you also please remind the ladies in returns that they need to split parcels when dealing with exchange items.

**Web orders** need to be split by somebody(bodies) in Customer Services. Whenever we have the resource we need to ask someone to do it. This could be at points during the day as well as on an evening. As many of these as possible need to be done by customer services every day.

**Orders over \$1000** need to be split into \$200 parcels but then the order number passed to OP. Although they do not need to do any additional checks OP can print a couple of invoices in one day so that the delay in the customer receiving the parcels is not too great.

**4. Customs duties are improperly avoided on Maine customers' 2010-2011 orders by Pure splitting shipments below \$200**

107. Pure's splitting practices throughout 2010 and 2011 resulted in the improper avoidance of Customs duties for the following orders placed by Maine customers. The following are examples of single orders Defendants improperly split.

108. Order #1481110 (placed Jan. 7, 2010), for ladies cardigans, blouses, and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in York, Maine, on January 8, 2010 in separate

parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

109. Order #1342412 (placed Jan. 20, 2010), for ladies cardigans, blouses, and shirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in York, Maine, on January 20, 2010 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

110. Order #1322244 (placed Feb. 8, 2010), for ladies sweaters and hats, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Westbrook, Maine, on February 9 and 10, 2010 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

111. Order #1317784 (placed Mar. 2, 2010), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Biddeford, Maine, on March 3 and 3, 2010 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

112. Order #1710151 (placed Mar. 5, 2010), for ladies trousers and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Yarmouth, Maine, on March 10 and 15, 2010 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

113. Order #1372344 (placed Mar. 8, 2010), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Southwest Harbor, Maine, on March 10, 2010 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

114. Order #1394889 (placed Mar. 15, 2010), for ladies shirts and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Freeport, Maine, on March 16, 2010 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

115. Order #1462614 (placed Mar. 24, 2010), for ladies sweaters and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on March 25 and 26, 2010 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

116. Order #1717035 (placed Mar. 26, 2010), for ladies scarves and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Mexico, Maine, on March 29 and 30, 2010 in separate parcels. As a result, a duty rate percentage of at least 9.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

117. Order #1564452 (placed Mar. 30, 2010), for ladies skirts and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Brunswick, Maine, on March 31 and April 1, 2010 in



separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

118. Order #1406138 (placed Apr. 10, 2010), for ladies skirts, dresses, and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Hallowell, Maine, on April 12, 2010 in separate parcels. As a result, a duty rate percentage of at least 8.1% that Customs would have imposed on some or all of the merchandise was improperly avoided.

119. Order # 1563516 (placed Apr. 12, 2010), for ladies sweaters, dresses, and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Auburn, Maine, on April 13 and 14, 2010 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

120. Order #1352828 (placed May 4, 2010), for ladies sweaters, cardigans, skirts, and wraps, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Orono, Maine, on May 5, 6 and 7, 2010 in separate parcels. As a result, a duty rate percentage of at least 14.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

121. Order #1632978 (placed June 4, 2010), for ladies shirts, blouses, and dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on June 4, 2010 in separate parcels. As a result, a duty rate percentage of at least 5.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

122. Order #1319924 (placed June 13, 2010), for ladies dresses and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in East Boothbay, Maine, on June 14 and 15, 2010 in separate parcels. As a result, a duty rate percentage of at least 5.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

123. Order #1319925 (placed June 23, 2010), for ladies dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in East Boothbay, Maine, on June 24 and 25, 2010 in separate parcels. As a result, a duty rate percentage of at least 5.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

124. Order #1334488 (placed Sept. 20, 2010), for ladies a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland Foreside, Maine, on September 20 and 23, 2010 in separate parcels. As a result, a duty rate percentage of at least 11.2% that Customs would have imposed on some or all of the merchandise was improperly avoided.

125. Order #1422993 (placed Oct. 11, 2010), for ladies a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Brooksville, Maine, on October 25, 2010 in separate parcels. As a result, a duty rate percentage of at least 14.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

126. Order #1659719 (placed Oct. 23, 2010), for ladies gloves, cardigans, and coats, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on October 25 and 26, 2010

in separate parcels. As a result, a duty rate percentage of at least 7.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

127. Order #1422982 (placed Nov. 3, 2010), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Brooksville, Maine, on November 3, 2010 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

128. Order #1346017 (placed Nov. 6, 2010), for ladies cardigans and coats, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Kennebunk, Maine, on November 8 and 9, 2010 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

129. Order #1319917 (placed Nov. 10, 2010), for ladies sweaters, cardigans, shirts, and scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Kennebunkport, Maine, on November 10, 2010 in separate parcels. As a result, a duty rate percentage of at least 9.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

130. Order #1394895 (placed Nov. 24, 2010), for ladies cardigans, blouses, and belts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Freeport, Maine, on November 25 and 26, 2010 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

131. Order # 1477059 (placed Dec. 3, 2010), for ladies cardigans, trousers, coats, and shirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Gorham, Maine, on December 7 and 8, 2010 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

132. Order #1354236 (placed Dec. 19, 2010), for ladies hats, gloves, scarves, and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Lewiston, Maine, on December 20 and 21, 2010 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

133. Order #1632980 (placed Dec. 19, 2010), for ladies blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on December 20, 2010 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

134. Order #1476479 (placed Jan. 5, 2011), for ladies gloves, trousers, and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cape Neddick, Maine, on January 5, 2011 in separate parcels. As a result, a duty rate percentage of at least 7.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

135. Order #1351643 (placed Jan. 8, 2011), for ladies cardigans, trousers, skirts, and handbags, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Casco, Maine, on January 10 and 11,

2011 in separate parcels. As a result, a duty rate percentage of at least 8.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

136. Order #1689396 (placed Jan. 29, 2011), for ladies sweaters, cardigans, and dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Machias, Maine, on January 31 and February 1, 2011 in separate parcels. As a result, a duty rate percentage of at least 13.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

137. Order #1314045 (placed Jan. 29, 2011), for ladies sweaters, cardigans, and scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Brunswick, Maine, on February 1, 2011 in separate parcels. As a result, a duty rate percentage of at least 9.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

138. Order #1632981 (placed Feb. 1, 2011), for ladies skirts, trouser, and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on February 1, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

139. Order #1448416 (placed Feb. 8, 2011), for ladies cardigans and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Boothbay Harbor, Maine, on February 9, 10, and 11, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

140. Order #1726399 (placed Feb. 9, 2011), for ladies scarves, trousers, and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Fairfield, Maine, on February 10 and 11, 2011 in separate parcels. As a result, a duty rate percentage of at least 9.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

141. Order #1645635 (placed Feb. 11, 2011), for ladies dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in York, Maine, on February 14 and 15, 2011 in separate parcels. As a result, a duty rate percentage of at least 7.2% that Customs would have imposed on some or all of the merchandise was improperly avoided.

142. Order #1422987 (placed Feb. 14, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Brooksville, Maine, on February 15, 16, and 17, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

143. Order #14647341 (placed Feb. 20, 2011), for ladies skirts and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Rockport, Maine, on February 21 and 22, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

144. Order #1646402 (placed Feb. 20, 2011), for ladies cardigans and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Harpswell, Maine, on February 21 and 22, 2011 in

separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

145. Order #1428652 (placed Feb. 22, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Bath, Maine, on February 23 and 25, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

146. Order #1632982 (placed Feb. 23, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on February 23 and 24, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

147. Order #1495004 (placed Feb. 27, 2011), for ladies trousers, cardigans, and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on February 28 and March 1, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

148. Order #1329455 (placed Feb. 28, 2011), for ladies trousers and sweaters was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Hallowell, Maine, on March 1 and 2, 2011 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

149. Order #1462835 (placed Mar. 7, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland, Maine, on March 8 and 9, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

150. Order #1508702 (placed Mar. 9, 2011), for ladies sweaters, cardigans, trousers, and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on March 9 and 10, 2011 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

151. Order #1433458 (placed Mar. 13, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Stockton Springs, Maine, on March 14, 15, 16, and 17, 2011 in separate parcels. As a result, a duty rate percentage of at least 7.2% that Customs would have imposed on some or all of the merchandise was improperly avoided.

152. Order #1319918 (placed Mar. 16, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Kennebunkport, Maine, on March 17, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

153. Order #1492655 (placed Mar. 18, 2011), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Kittery Point, Maine, on March 21 and 22, 2011 in separate parcels.



As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

154. Order #1435303 (placed May 5, 2011), for ladies cardigans, sweaters, and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Fryeburg, Maine, on May 6, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

155. Order #1385933 (placed May 7, 2011), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Arundel, Maine, on May 23, 2011 in separate parcels. As a result, a duty rate percentage of at least 11.2% that Customs would have imposed on some or all of the merchandise was improperly avoided.

156. Order #1324746 (placed May 15, 2011), for ladies sweaters and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on May 16, 17, 18, and 19, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

157. Order #1425493 (placed May 23, 2011), for ladies cardigans and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cape Elizabeth, Maine, on May 24 and 25, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

158. Order #1406139 (placed May 25, 2011), for ladies scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Hallowell, Maine, on May 25 and 26, 2011 in separate parcels. As a result, a duty rate percentage of at least 9.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

159. Order #1698751 (placed June 3, 2011), for ladies cardigans, blouses, and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Bar Harbor, Maine, on June 6 and 7, 2011 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

160. Order #1452403 (placed June 6, 2011), for ladies cardigans, wraps, and skirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Augusta, Maine, on June 7, 8, and 9, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.4% that Customs would have imposed on some or all of the merchandise was improperly avoided.

161. Order #1423503 (placed June 14, 2011), for ladies cardigans, blouses, and dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Wiscasset, Maine, on June 15 and 16, 2011 in separate parcels. As a result, a duty rate percentage of at least 7.2% that Customs would have imposed on some or all of the merchandise was improperly avoided.

162. Order #1377270 (placed June 17, 2011), for ladies cardigans, skirts, blouses, and dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland Foreside, Maine, on June

20, 21, 22, and 23, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

163. Order #1360978 (placed July 1, 2011), for ladies dresses, trousers, and tops, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Mount Desert Island, Maine, on July 4, 5 and 6, 2011 in separate parcels. As a result, a duty rate percentage of at least 13.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

164. Order #1317778 (placed July 3, 2011), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Biddeford, Maine, on July 4 and 5, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

165. Order #1320291 (placed July 4, 2011), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Hulls Cove, Maine, on July 4 and 5, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

166. Order #1479264 (placed July 16, 2011), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Seal Harbor, Maine, on July 18 and 19, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

167. Order #1675518 (placed Aug. 6, 2011), for ladies skirts and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on August 8 and 9, 2011 in separate parcels. As a result, a duty rate percentage of at least 3.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

168. Order #1321009 (placed Aug. 7, 2011), for ladies handbags, skirts, blouses, and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland Center, Maine, on August 8, 9 and 10, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.9% that Customs would have imposed on some or all of the merchandise was improperly avoided.

169. Order #1485510 (placed Aug. 30, 2011), for ladies cardigans, sweaters, and jackets, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Phippsburg, Maine, on August 30 and 31, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

170. Order #1633770 (placed Sept. 3, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Scarborough, Maine, on September 5, 6, 7, 8, and 9, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

171. Order #1676994 (placed Sept. 3, 2011), for ladies cardigans and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Chebeague Island, Maine, on September 5 and 6, 2011 in

separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

172. Order #4768395 (placed Sept. 4, 2011), for ladies sweaters and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Penobscot, Maine, on September 5 and 6, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

173. Order #1569557 (placed Sept. 6, 2011), for ladies sweaters, scarves, and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Windham, Maine, on September 7 and 7, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

174. Order #1424933 (placed Sept. 9, 2011), for ladies sweaters, cardigans and tunics, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Winthrop, Maine, on September 12, 13, and 14, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

175. Order #1373479 (placed Sept. 11, 2011), for ladies sweaters, cardigans and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in York Beach, Maine, on September 12 and 13, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

176. Order #1514568 (placed Sept. 12, 2011), for ladies sweaters and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Rockland, Maine, on September 13 and 14, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

177. Order #1650013 (placed Sept. 12, 2011), for ladies blouses and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Camden, Maine, on September 13 and 14, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

178. Order #1419254 (placed Sept. 19, 2011), for ladies skirts and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Kennebunkport, Maine, on September 20 and 21, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

179. Order #1367317 (placed Sept. 20, 2011), for ladies cardigans and tunics, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland Center, Maine, on September 20 and 21, 2011 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

180. Order #1403633 (placed Sept. 23, 2011), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Boothbay Harbor, Maine, on September 26, 27, 28, and 29, 2011 in

separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

181. Order #1321010 (placed Sept. 25, 2011), for ladies dresses, jackets, sweaters, and skirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Freeport, Maine, on September 26, 27, 28, and 29, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

182. Order #1336788 (placed Sept. 28, 2011), for ladies cardigans, trousers, and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Blue Hill, Maine, on September 29 and 30, and October 3 and 5, 2011 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

183. Order #1639745 (placed Sept. 28, 2011), for ladies skirts, dresses, and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Rockland, Maine, on September 28, 29, and 30, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

184. Order #1515573 (placed Sept. 28, 2011), for ladies coats and gloves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland, Maine, on September 28 and 29, 2011 in separate parcels. As a result, a duty rate percentage of at least 7.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

185. Order #1349190 (placed Sept. 29, 2011), for ladies sweaters, dresses, and scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Yarmouth, Maine, on September 29 and 30, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

186. Order #1616054 (placed Oct. 3, 2011), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Canaan, Maine, on October 4, 5, and 6, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

187. Order #1317780 (placed Oct. 6, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Biddeford, Maine, on October 7, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

188. Order #1518063 (placed Oct. 9, 2011), for ladies tunics and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on October 10 and 11, 2011 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

189. Order #1428654 (placed Oct. 11, 2011), for ladies sweaters, trousers, and gloves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Bath, Maine, on October 11 and 12, 2011 in



separate parcels. As a result, a duty rate percentage of at least 7.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

190. Order #1419293 (placed Oct. 16, 2011), for ladies cardigans and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on October 17, 18, and 19, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

191. Order #1664524 (placed Oct. 19, 2011), for ladies shirts, jackets, and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Auburn, Maine, on October 20 and 21, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

192. Order #1622766 (placed Oct. 25, 2011), for ladies dresses and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on October 26 and 27, 2011 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

193. Order #1381355 (placed Oct. 27, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on October 28, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

194. Order #1447187 (placed Oct. 31, 2011), for ladies cardigans, shirts, and dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Columbia Falls, Maine, on November 1 and 2, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

195. Order #1473925 (placed Nov. 1, 2011), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Boothbay Harbor, Maine, on November 1 and 2, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

196. Order #1617853 (placed Nov. 2, 2011), for ladies trousers, blouses, and skirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Yarmouth, Maine, on November 3 and 4, 2011 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

197. Order #1319919 (placed Nov. 4, 2011), for ladies scarves, tops, sweaters, and tunics, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Kennebunkport, Maine, on November 7 and 8, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

198. Order #1363830 (placed Nov. 4, 2011), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in York, Maine, on November 7, 2011 in separate parcels.

As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

199. Order #1352829 (placed Nov. 4, 2011), for ladies skirts and dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Orono, Maine, on November 7 and 8, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

200. Order #1389419 (placed Nov. 7, 2011), for ladies cardigans, sweaters, and vests, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Camden, Maine, on November 8, 9, and 10, 2011 in separate parcels. As a result, a duty rate percentage of at least 16.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

201. Order #1621202 (placed Nov. 7, 2011), for ladies blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in South Berwick, Maine, on November 7 and 8, 2011 in separate parcels. As a result, a duty rate percentage of at least 3.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

202. Order #1319079 (placed Nov. 8, 2011), for ladies skirts, cardigans, blouses, and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Berwick, Maine, on November 9 and 10, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.9% that Customs would have imposed on some or all of the merchandise was improperly avoided.

203. Order #1453876 (placed Nov. 10, 2011), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Kennebunk, Maine, on November 10 and 11, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

204. Order #1386077 (placed Nov. 14, 2011), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland Foreside, Maine, on November 15 and 16, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

205. Order #1506053 (placed Nov. 14, 2011), for ladies skirts and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on November 14, 15, and 17, 2011 in separate parcels. As a result, a duty rate percentage of at least 14.9% that Customs would have imposed on some or all of the merchandise was improperly avoided.

206. Order #1632986 (placed Nov. 16, 2011), for ladies cardigans and dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on November 16, 17, and 18, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

207. Order #1646405 (placed Nov. 21, 2011), for ladies blouses and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Topsham, Maine, on November 22 and 23, 2011 in

separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

208. Order #1386078 (placed Nov. 25, 2011), for ladies scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland Foreside, Maine, on November 28 and 29, 2011 in separate parcels. As a result, a duty rate percentage of at least 9.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

209. Order #1409169 (placed Nov. 25, 2011), for ladies cardigans and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cape Elizabeth, Maine, on November 28 and 29, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

210. Order #1477533 (placed Nov. 27, 2011), for ladies cardigans and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on November 28 and 29, 2011 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

211. Order #1367673 (placed Nov. 28, 2011), for ladies sweaters and socks, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Hancock, Maine, on November 29 and 30, 2011 in separate parcels. As a result, a duty rate percentage of at least 11.3% that Customs would have imposed on some or all of the merchandise was improperly avoided.

212. Order #1503883 (placed Dec. 2, 2011), for ladies sweaters and socks, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Rockport, Maine, on December 5, 6, and 7, 2011 in separate parcels. As a result, a duty rate percentage of at least 11.3% that Customs would have imposed on some or all of the merchandise was improperly avoided.

213. Order #1717198 (placed Dec. 7, 2011), for ladies scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in North Yarmouth, Maine, on December 8 and 9, 2011 in separate parcels. As a result, a duty rate percentage of at least 9.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

**B. From 2012 through March 2016, Pure Adjusts its Approach to Improperly Avoiding Customs Duties by Implementing a Policy of “Sensible Splitting”**

**1. Pure reevaluates and revises its splitting practices for business reasons**

214. On November 17, 2011, Harrison emailed Care about the need to organize a “USA \$200 dollar, splitting, duty etc. meeting.”

215. Invitations for the meeting were circulated via email to Pure personnel including Harrison, Jauncey, Care, Stow, and Slater, as well as Ian Taylor, Pure’s Commercial Finance Manager. The meeting was set for November 22, 2011 from 10:30 a.m. to 11:30 a.m. at Pure’s warehouse in Knaresborough, United Kingdom. The subject line of the emailed meeting invitation was “USA Splitting Parcels.”

216. Prior to the meeting, Taylor emailed Harrison on November 17, 2011, exploring an idea he called “sensible splitting.”

217. As of November 2011, nearly half of Pure’s U.S. orders were over \$200. Although it was Pure’s policy and practice to split as many of these orders into parcels valued at

less than \$200, due to the sheer volume of the orders, Pure was unable to successfully split every parcel.

218. At the same time, Pure believed that it was unlikely that CBP would subject every parcel valued at \$200 or higher to inspection and assess a duty. Rather, Pure believed CBP was more likely to assess duties on packages valued at \$400 or more. Splitting U.S. orders into \$400 would also conserve Pure's Customer Services and Order Processing resources, because only roughly one out of every seven shipments to U.S. customers exceeded \$400 in value.

219. Given these factors, Taylor suggested separating shipments exceeding a threshold value of \$400, rather than \$200. This "sensible splitting" approach, Pure believed, would still enable Pure to "monitor the impact on duty/delivery times."

220. Under the "sensible splitting" approach, however, single orders were still commonly shipped separately in order to avoid duties from being assessed on parcels with contents valued over \$200. For example, for example, a \$550 single order split into \$400 and \$150 would avoid any duties assessable on the split parcel of lesser value.

221. Pure and Harrison thus knew and/or acted in reckless disregard or with deliberate ignorance of the fact that the company's shift to "sensible splitting" would continue to result in the improper avoidance of duties below the *de minimis* value threshold.

222. As a result of the "USA Splitting Parcels" meeting Pure held on November 22, 2011, Stow emailed all Customer Service and Order Processing staff on November 30, 2011 that Pure "had a meeting recently and made a few updates to US orders and the way we ship them."

223. She provided the following instruction regarding Pure's new "sensible splitting" practice:

US parcel splitting

The limit for US parcel splitting has now increased to \$400. Not a dollar more ..... so this means up to \$400. Remember: This is for the value of the goods and never includes the shipping element. Care Team will continue to split the USO and US1 orders on the web.

224. The policy of \$400 splitting was memorialized and distributed to Pure personnel via a Customer Service Update on January 2, 2012.

225. Consequently, Pure personnel who had previously been trained in 2010 and 2011 in accordance with Pure's internal training materials as follows:

**Splitting Parcels**

US Customs charges duties for parcels with a value of over \$200. We therefore need to split the shipping of orders over this value.

Select an item and choose a separate shipping date for this item. Ensure shipping dates are 2 days apart.

from 2012 onward were trained:

**Splitting Parcels (USPS Standard Shipping)**

US Customs charges duties for parcels with a value of over \$200. We therefore need to split the orders. Because we ship through USPS for standard parcels, we will split to \$400.

Select an item and choose a separate shipping date for this item. Ensure shipping dates are 2 days apart.

226. Pure employees nonetheless continued to stay abreast of and re-educate themselves regarding the \$200 *de minimis* value exemption.

227. On March 26, 2012, a "Pure Collection Ltd" email account messaged Pure Customer Service employees Karen Peach and Trevor Rodda "US Parcel Splits Info." The email



copied and pasted “the link with the information that we were discuss[ing] about values on US parcel splits,” and instructed Peach and Rodda to “pay particular interest in paragraph 3.”

228. The link supplied in the email was to the CBP’s website, [https://help.cbp.gov/app/answers/detail/a\\_id/363/-/personal-imports-of-textiles-%2Fapparel-%2F-clothing-%2F-fabric-from-european](https://help.cbp.gov/app/answers/detail/a_id/363/-/personal-imports-of-textiles-%2Fapparel-%2F-clothing-%2F-fabric-from-european). The referenced third paragraph of the website stated, “[i]f the textiles value does not exceed \$200, CBP will generally not assess duty. If the value exceeds \$200, you may be required to pay duty, which could range between 3-25%, depending on the items’ classification number.

**2. Harrison and Falkingham discuss the duty implications of their improper splitting and that CBP could “come after them”**

229. In the spring of 2013, Pure began to explore additional methods of shipping parcels to U.S. customers. As an alternative to standard delivery services, it sought a reliable shipping service that offered Pure the ability to track parcels sent to its U.S. customers.

230. To that end, Harrison had preliminary discussions with WN Shipping USA, Inc., based in Inwood, New York (“WN,” formerly Worldnet), about available shipping options to U.S. customers.

231. At that time, Pure already contracted with WN to handle all shipping returns from U.S. Customers. Later, starting in August 2016, Pure engaged WN to ship U.S. customers’ orders from the United Kingdom to the United States using a tracked 4-to-6 day non-express service.

232. In discussing whether Pure should use WN in an expanded shipping role, Harrison told Falkingham in a March 4, 2013 email

One of my concerns as we grow is that we are still splitting parcels and avoiding duty via the [standard mail] route and I am nervous about the potential duty implications this may have for us. After speaking with

Worldnet it did highlight that US customs could come after us at any point.”

Harrison conveyed to Falkingham that the Customs “duty threshold may be lifted to \$600 at some point this year, and this would obviously solve a big issue for us.”

233. Falkingham agreed to add the issue to be discussed at an internal Pure meeting scheduled later that same week.

234. Notwithstanding the discussion between Harrison and Falkingham, Pure and Harrison continued to improperly avoid Customs duties by splitting parcels.

**3. Customs duties are improperly avoided on Maine customers’ 2012-2016 orders by Pure splitting shipments below \$200**

235. Pure’s “sensible splitting” practices from 2012 through early 2016 nonetheless resulted in the improper avoidance of Customs duties for the following orders placed by Maine customers. The following are examples of single orders Defendants improperly split.

236. Order #1519362 (placed Feb. 8, 2012), for ladies cardigans and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in North Yarmouth, Maine, on February 9 and 10, 2012 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

237. Order #1535574 (placed Feb. 8, 2012), for ladies blouses, sweaters, trousers, and scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Rockland, Maine, on February 9 and 10, 2012 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

238. Order #1676995 (placed Mar. 10, 2012), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption,

and mailed to a customer in Chebeague Island, Maine, on March 12 and 13, 2012 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

239. Order #1641845 (placed Mar. 14, 2012), for ladies blouses, shirts, sweaters, and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Durham, Maine, on March 15 and 16, 2012 in separate parcels. As a result, a duty rate percentage of at least 3.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

240. Order #1566084 (placed Apr. 24, 2012), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Durham, Maine, on April 24 and 25, 2012 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

241. Order #1555741 (placed Sept. 12, 2012), for ladies cardigans and tunics, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in York, Maine, on September 13 and 14, 2012 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

242. Order #1345242 (placed Sept. 17, 2012), for ladies cardigans and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in East Blue Hill, Maine, on September 18 and 19, 2012 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

243. Order #1705670 (placed Sept. 21, 2012), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Bath, Maine, on September 24 and 25, 2012 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

244. Order #1394897 (placed Sept. 21, 2012), for ladies cardigans and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Freeport, Maine, on September 24 and 25, 2012 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

245. Order #1345107 (placed Nov. 26, 2012), for ladies sweaters, tunics, and scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cape Elizabeth, Maine, on December 10 and 11, 2012 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

246. Order #1691838 (placed Mar. 2, 2013), for ladies sweaters, skirts, and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland Foreside, Maine, on March 5 and 6, 2013 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

247. Order #1442880 (placed Mar. 5, 2013), for ladies coats, sweaters, blouses, and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on March 6 and 7,

2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

248. Order #1638872 (placed Apr. 3, 2013), for ladies trousers, sweaters, blouses, and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Monroe, Maine, on April 4 and 4, 2013 in separate parcels. As a result, a duty rate percentage of at least 3.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

249. Order #1613507 (placed May 15, 2013), for ladies cardigans, sweaters, and vests, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Kittery, Maine, on May 16 and 17, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

250. Order #1601107 (placed July 24, 2013), for ladies sweaters, trousers, and handbags, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cumberland Foreside, Maine, on July 25 and 26, 2013 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

251. Order #1552210 (placed Aug. 22, 2013), for ladies sweaters and scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Gorham, Maine, on August 22 and 23, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

252. Order #1669421 (placed Aug. 27, 2013), for ladies sweaters, cardigans, and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Brunswick, Maine, on August 28 and 29, 2013 in separate parcels. As a result, a duty rate percentage of at least 6.9% that Customs would have imposed on some or all of the merchandise was improperly avoided.

253. Order #1539704 (placed Sept. 2, 2013), for ladies sweaters and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Camden, Maine, on September 4 and 5, 2013 in separate parcels. As a result, a duty rate percentage of at least 14.9% that Customs would have imposed on some or all of the merchandise was improperly avoided.

254. Order #1345111 (placed Sept. 4, 2013), for ladies dresses, sweaters, and shirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cape Elizabeth, Maine, on September 5 and 6, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

255. Order #1345112 (placed Sept. 4, 2013), for ladies dresses, sweaters, and shirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cape Elizabeth, Maine, on September 5 and 6, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

256. Order #1397034 (placed Sept. 15, 2013), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Bath, Maine, on September 17 and 18, 2013 in separate parcels. As a

result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

257. Order #1403242 (placed Sept. 21, 2013), for ladies cardigans, blouses, and vests, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Peaks Island, Maine, on September 24 and 25, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

258. Order #1387409 (placed Sept. 22, 2013), for ladies cardigans, sweaters, and skirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Freeport, Maine, on September 24 and 25, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

259. Order #1320281 (placed Oct. 8, 2013), for ladies cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Hulls Cove, Maine, on October 9 and 10, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

260. Order #1436780 (placed Oct. 15, 2013), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on October 16 and 17, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

261. Order #1394892 (placed Oct. 25, 2013), for ladies cardigans, shirts, and dresses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Freeport, Maine, on October 29 and 30, 2013 in separate parcels. As a result, a duty rate percentage of at least 32.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

262. Order #1528383 (placed Oct. 26, 2013), for ladies sweaters and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Sargentville, Maine, on October 29 and 30, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

263. Order #1504236 (placed Oct. 26, 2013), for ladies hats and scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Freeport, Maine, on October 29 and 30, 2013 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

264. Order #1436781 (placed Oct. 26, 2013), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on October 29 and 30, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

265. Order #1533904 (placed Nov. 8, 2013), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in South Portland, Maine, on November 11, 12, and 13,



2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

266. Order #1547108 (placed Nov. 11, 2013), for ladies cardigans and vests, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in South Kennebunk, Maine, on November 14 and 15, 2013 in separate parcels. As a result, a duty rate percentage of at least 16.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

267. Order #1391497 (placed Nov. 16, 2013), for ladies gloves, scarves, and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Biddeford Pool, Maine, on November 19 and 20, 2013 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

268. Order #1576703 (placed Nov. 17, 2013), for ladies cardigans and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on November 19 and 20, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

269. Order #1688409 (placed Nov. 20, 2013), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Hallowell, Maine, on November 25 and 26, 2013 in separate parcels. As a result, a duty rate percentage of at least 14.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

270. Order #1577173 (placed Dec. 14, 2013), for ladies scarves, gloves, and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Alna, Maine, on December 17 and 18, 2013 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

271. Order #1360695 (placed Mar. 4, 2014), for ladies cardigans, sweaters, belts, and shirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on March 6 and 7, 2014 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

272. Order #1436777 (placed Feb. 4, 2014), for ladies cardigans, dresses, and skirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on February 5 and 6, 2014 in separate parcels. As a result, a duty rate percentage of at least 1.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

273. Order #1552753 (placed Feb. 21, 2014), for ladies cardigans, sweaters, and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Southwest Harbor, Maine, on February 25 and 26, 2014 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

274. Order #1644018 (placed Feb. 28, 2014), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Blue Hill, Maine, on March 4 and 5, 2014 in separate

parcels. As a result, a duty rate percentage of at least 16.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

275. Order #1693153 (placed Apr. 25, 2014), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Machias, Maine, on April 29 and 30, 2014 in separate parcels. As a result, a duty rate percentage of at least 16.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

276. Order #1713563 (placed May 9, 2014), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on May 12 and 13, 2014 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

277. Order #1505158 (placed May 14, 2014), for ladies cardigans, blouses, trousers, and shirts, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cape Neddick, Maine, on May 15 and 16, 2014 in separate parcels. As a result, a duty rate percentage of at least 5.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

278. Order #10063532 (placed Aug. 28, 2014), for ladies coats and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Falmouth, Maine, on August 29 and September 9, 2014 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

279. Order #10090936 (placed Sept. 26, 2014), for ladies blouses, dresses, and cardigans, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Blue Hill, Maine, on September 29 and October 1, 2014 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

280. Order #10087014 (placed Sept. 28, 2014), for ladies cardigans and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Yarmouth, Maine, on September 24 and 25, 2014 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

281. Order #10109312 (placed Oct. 15, 2014), for ladies scarves and gloves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cape Elizabeth, Maine, on October 17 and 19, 2014 in separate parcels. As a result, a duty rate percentage of at least 9.6% that Customs would have imposed on some or all of the merchandise was improperly avoided.

282. Order #10142884 (placed Nov. 13, 2014), for ladies trousers, cardigans, and sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on November 13 and 14, 2014 in separate parcels. As a result, a duty rate percentage of at least 14.9% that Customs would have imposed on some or all of the merchandise was improperly avoided.

283. Order #10176109 (placed Dec. 9, 2014), for ladies skirts and coats, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Portland, Maine, on December 10 and 11, 2014 in

separate parcels. As a result, a duty rate percentage of at least 16.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

284. Order #10285783 (placed Mar. 9, 2015), for ladies sweaters, jackets, and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Bath, Maine, on March 11 and 13, 2015 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

285. Order #10425073 (placed Aug. 23, 2015), for ladies sweaters and coats, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Bangor, Maine, on August 24 and 25, 2015 in separate parcels. As a result, a duty rate percentage of at least 16.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

286. Order #10430537 (placed Aug. 27, 2015), for ladies cardigans and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Sorrento, Maine, on August 30, 2015 in separate parcels. As a result, a duty rate percentage of at least 3.5% that Customs would have imposed on some or all of the merchandise was improperly avoided.

287. Order #10445326 (placed Sept. 8, 2015), for a variety of ladies items, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Otisfield, Maine, on September 9, 10, and 11, 2015 in separate parcels. As a result, a duty rate percentage of at least 32.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

288. Order #10449793 (placed Sept. 12, 2015), for ladies jackets and trousers, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Rockport, Maine, on September 14 and 15, 2015 in separate parcels. As a result, a duty rate percentage of at least 14.9% that Customs would have imposed on some or all of the merchandise was improperly avoided.

289. Order #10501441 (placed Oct. 25, 2015), for ladies sweaters and blouses, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Kennebunkport, Maine, on October 26 and 30, 2015 in separate parcels. As a result, a duty rate percentage of at least 6.9% that Customs would have imposed on some or all of the merchandise was improperly avoided.

290. Order #10528817 (placed Nov. 11, 2015), for ladies sweaters and scarves, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Camden, Maine, on November 12 and 15, 2015 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

291. Order #10601159 (placed Dec. 31, 2015), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Eliot, Maine, on January 2 and 5, 2016 in separate parcels. As a result, a duty rate percentage of at least 4.0% that Customs would have imposed on some or all of the merchandise was improperly avoided.

292. Order #10639073 (placed Jan. 31, 2015), for ladies sweaters, was split into two or more shipments, with one or more shipments valued below the \$200 *de minimis* exemption, and mailed to a customer in Cape Elizabeth, Maine, on February 1 and 2, 2016 in separate parcels.

As a result, a duty rate percentage of at least 6.9% that Customs would have imposed on some or all of the merchandise was improperly avoided.

**C. From March 2016 Through Early 2017, Pure Continues to Split its U.S. Customers' Orders Into Parcels Valued Below the Newly-Increased \$800 Threshold to Avoid Duties**

293. On February 24, 2016, the "Trade Facilitation and Trade Enforcement Act of 2015" was signed into law, comprising a series of measures intended to modernize the import clearance process in the United States.

294. One such measure was that the Tariff Act of 1930 was amended to increase from \$200 to \$800 the *de minimis* value exemption of 19 U.S.C. § 1321(a)(2)(C) and 19 C.F.R. § 145.31 with respect to duty-free articles imported by one U.S. customer on a single day.

295. Thus, starting on March 10, 2016, shipments into the United States valued at \$800 or less for the *de minimis* value exemption became eligible under the same processes and with the same restrictions that had previously applied to *de minimis* shipments of \$200 or less.

296. Falkingham and Harrison actively followed the increase of the *de minimis* value exemption from \$200 to \$800.

297. On March 9, 2016, the day before the \$800 increase went into effect, Falkingham emailed Harrison information he had received about the increase.

298. On March 15, 2016, Falkingham emailed Harrison again to update her that the \$800 increase became effective on March 10, 2016.

299. From March 2016 through at least January 2017, Pure improperly avoided Customs duties by splitting its shipments to U.S. customers into parcels valued below the newly-increased \$800 *de minimis* value exemption.

300. Such shipments were improperly split and shipped in separate parcels to at least 67 different U.S. customers across the country, including those in Alaska, Arizona, California,

Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, North Carolina, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin.

301. Following Pure's August 2016 engagement of WN to begin importing shipments to U.S. customers via a tracked service, WN's Commercial Manager Danielle Sciremammano raised the issue of splitting below the \$800 limit with Harrison and Christopher O'Grady, Pure's Head of Logistics who managed warehouse operations.

302. In a September 27, 2016 email, Sciremammano told them

I can see that you are splitting up shipments that are over \$800 USD into 2 or 3 shipments in order to avoid duty. Unfortunately, US Customs combines the total value of all parcels going to any given consignee under the same [master airway bill]. If that combined value exceeds \$800 USD, then the shipments will be subject to duty.

Sciremammano then offered, "[i]n order to avoid this moving forward, I suggest splitting high value orders over 2 different days so that duty will not apply. I would start this today if possible as I suspect there will be additional duty from last week."

303. O'Grady thanked Sciremammano for the information and told her Pure would "have a look at what we can do our end and come back to you." He noted, further, "[i]t is an issue for us to resolve and i am looking at options on how we can overcome the problem."

304. In an October 14, 2016 email, Sciremammano followed up with Harrison and O'Grady to see whether they had "any thoughts on how we can work this out."

305. In a private follow up email between O'Grady and Harrison later on October 14, 2016, O'Grady told Harrison "if the order is over \$800, we are splitting but US customs are spotting them and charging duty. The only way we can stop it is if we delay sending a parcel out



by 2 days to be sure they have passed through the system but even then i don't know if the US customs systems are geared up to spot them." They agreed to discuss the issue later that day.

306. Following this October 14, 2016 email exchange, Pure continued to improperly split U.S. customer orders into separate shipments to fall below \$800.

307. Pure did so for dutiable Order #10935351, which it split from an \$886.20 single order placed on October 16, 2016, into three separate orders shipped to a customer in Seattle, Washington, on October 19, 20, and 24, 2016.

308. Pure did so for dutiable Order #10937256, which it split from a \$946.19 single order placed on October 16, 2016, into separate orders shipped to a customer in Pelham, New York, on October 21 and 24, 2016.

309. Pure did so for dutiable Order #10937911, which it split from an \$855.60 single order placed on October 17, 2016, into separate orders shipped to a customer in Soda Springs, Idaho, on October 19 and 20, 2016.

310. Pure did so for dutiable Order #10939891, which it split from a \$1,005.00 single order placed on October 19, 2016, into separate orders shipped to a customer in Glenview, Illinois, on October 21 and 24, 2016.

311. Pure did so for dutiable Order #10944802, which it split from a \$1,090.50 single order placed on October 22, 2016, into separate orders shipped to a customer in New Canaan, Connecticut, on October 24 and 25, 2016.

312. Pure did so for dutiable Order #10948235, which it split from a \$1,112.30 single order placed on October 24, 2016, into separate orders shipped to a customer in Tallahassee, Florida, on October 26 and 28, 2016.

313. Pure did so for dutiable Order #10953833, which it split from a \$939.80 single order placed on October 27, 2016, into separate orders shipped to a customer in Bethesda, Maryland, on October 28 and 30, 2016.

314. Pure did so for dutiable Order # 10953889, which it split from an \$821.80 single order placed on October 27, 2016, into separate orders shipped to a customer in North East, Maryland, on October 30 and 31, 2016.

315. Pure did so for dutiable Order #10967723, which it split from a \$1,096.80 single order placed on November 7, 2016, into separate orders shipped to a customer in Thomaston, Georgia, on November 9 and 10, 2016.

316. Pure did so for dutiable Order #10971995, which it split from a \$1,155.70 single order placed on November 8, 2016, into separate orders shipped to a customer in Wyckoff, New Jersey, on November 9, 10 and 11, 2016.

317. Pure did so for dutiable Order #10983853, which it split from an \$833.00 single order placed on November 14, 2016, into separate orders shipped to a customer in Littleton, Colorado, on November 15 and 16, 2016.

318. Pure did so for dutiable Order #10999470, which it split from a \$904.40 single order placed on November 23, 2016, into separate orders shipped to a customer in New York, New York, on November 23 and 28, 2016.

319. Pure did so for dutiable Order #11018497, which it split from an \$871.00 single order placed on December 1, 2016, into separate orders shipped to a customer in Chapel Hill, North Carolina, on December 1 and 2, 2016.

320. Pure did so for dutiable Order #11026854, which it split from a \$1,008.00 single order placed on December 7, 2016, into separate orders shipped to a customer in Hickory, North Carolina, on December 8 and 9, 2016.

321. Pure did so for dutiable Order #11027742, which it split from a \$921.00 single order placed on December 8, 2016, into separate orders shipped to a customer in Santa Cruz, California, on December 9 and 13, 2016.

322. Pure did so for dutiable Order #11028503, which it split from an \$887.00 single order placed on December 8, 2016, into separate orders shipped to a customer in Norfolk, Massachusetts, on December 11, 2016.

323. Pure did so for dutiable Order #11028550, which it split from a \$1,013.97 single order placed on December 8, 2016, into separate orders shipped to a customer in King City, California, on December 14, 2016.

324. Pure did so for dutiable Order #11049525, which it split from a \$971.20 single order placed on December 27, 2016, into separate orders shipped to a customer in Paradise Valley, Arizona, on December 29, 2016.

325. Pure did so for dutiable Order #11055246, which it split from a \$909 single order placed on December 30, 2016, into separate orders shipped to a customer in Huntington Station, New York, on January 3 and 4, 2017.

**Count I: Reverse False Claims**

(31 U.S.C. § 3729(a)(1)(G))

326. Paragraphs 1 through 325 are realleged as though fully set forth herein.

327. Defendants' actions resulted in the release of Pure merchandise into the stream of commerce in the United States and, consequently, the improper avoidance of Customs duties payable by U.S. customers.

328. Such duties accrued at the time of importation by virtue of Customs law and regulation and were due and owing to the United States at that time.

329. Defendants knew of the obligations imposed by Customs law and regulation to pay duties yet nonetheless acted to conceal, avoid, and/or decrease such obligations by knowingly splitting shipments into separate parcels valued beneath the *de minimis* value exemption.

330. Accordingly, through their splitting practices, Defendants knowingly made, used, or caused to be made or used false records or statements material to an obligation to pay or transmit money or property to the Government in violation of the False Claims Act's reverse false claims provision, 31 U.S.C. § 3729(a)(1)(G) and (b)(3).

331. Accordingly, through their splitting practices, Defendants knowingly concealed or knowingly and improperly avoided or decreased an obligation to pay or transmit money or property to the Government in violation of the False Claims Act's reverse false claims provision, 31 U.S.C. § 3729(a)(1)(G) and (b)(3).

332. Pure and Harrison engaged in such reverse false claims activity with actual knowledge, and/or with reckless disregard or deliberate ignorance of the fact that the company's practices would result in the improper avoidance of duties below the applicable *de minimis* value thresholds.

333. Because of Defendants' acts, the United States sustained damages in an amount to be determined at trial, and therefore is entitled to treble damages under the False Claims Act,

plus civil penalties of not less than \$5,500 and not more than \$11,000 for violations occurring before November 2, 2015, and not less than \$10,781.40 and not more than \$21,562.80 for each violation occurring after November 2, 2015.

**PRAYER FOR RELIEF**

334. WHEREFORE, Plaintiff, the United States, requests that judgment be entered in its favor and against Defendants as follows:

- A. On Count One (Reverse False Claims, 31 U.S.C. § 3729(a)(1)(G)), for treble the United States' damages, in an amount to be determined at trial, plus civil penalties for each false claim presented, together with all such relief as may be just and proper;
- B. On Count One, an award of costs pursuant to 31 U.S.C. § 3729(a);
- C. All other relief this Court deems just and proper, including interest and costs.

Dated: July 14, 2017  
Portland, Maine

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on July 14, 2017, I caused a copy of the foregoing to be filed with the Court, under seal. In addition, I caused a copy of the foregoing to be served by U.S. Mail to:

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