



U.S. Customs and  
Border Protection

**PUBLIC VERSION**

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[ name ]  
Pacific Building Material Inc  
2191 Broach Ave  
Duarte, CA 91010  
sales.pacificmaterial@gmail.com

Jenny Kwong  
Deco Kitchen Cabinet & Bath, Inc.  
950 McLaughlin Ave  
San Jose, CA 95122  
decokitchenbath@yahoo.com

Su Dan Zhang  
Skyview Cabinet USA Inc  
5602 Maspeth Ave.  
Maspeth, NY 11378  
Sales@skyviewcabinet.com

[ name ]  
Greentree Trading Company  
31 N Maple Ave, Apt 17  
Marlton, NJ 08053  
[ email address ]

Timothy Brightbill  
On behalf of MasterBrand Cabinets, Inc.  
Wiley Rein LLP  
1776 K Street NW  
Washington, DC 20006  
TBrightbill@wiley.law

RE: Notice of Initiation of Investigation and Interim Measures: Consolidated EAPA Case 7553

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Dear Counsel and/or Representatives for the Above-Referenced Entities:

This letter is to inform you that U.S. Customs and Border Protection (CBP) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act (TFTEA) of 2015, commonly referred to as the Enforce and Protect Act (EAPA). Specifically, CBP is investigating whether Pacific Building Material Inc. (“PBM”), Deco Kitchen Cabinet & Bath, Inc. (“Deco”), Skyview Cabinet USA, Inc (“Skyview”), and Greentree Trading Company (“Greentree”)<sup>1</sup> evaded the antidumping (“AD”) and countervailing duty (“CVD”) orders A-570-106 and C-570-107, respectively, on wooden cabinets and vanities and components thereof (“WCV”) from the People’s Republic of China<sup>2</sup> by entering into the United States Chinese-origin WCV that were transhipped through Malaysia and were falsely entered as Malaysian-origin merchandise not subject to the AD/CVD orders. Based on a review of available information, CBP has determined that there is reasonable suspicion of evasion of AD/CVD duties by PBM, Deco, Skyview, and Greentree, and therefore, CBP has imposed the interim measures outlined below.

### **Period of Investigation**

Pursuant to 19 CFR 165.2, entries covered by an EAPA investigation “are those entries of allegedly covered merchandise made within one year before the receipt of an allegation...”<sup>3</sup> Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.”<sup>4</sup> On October 13, 2020, and October 20, 2020, MasterBrand Cabinets, Inc. (“MasterBrand”), a domestic producer of wooden cabinets and vanities and components thereof (“WCV”), filed EAPA allegations claiming that PBM, Deco, Skyview, and Greentree are evading the aforementioned AD/CVD orders.<sup>5</sup> On October 21, 2020, MasterBrand submitted a supplement to each of the allegations.<sup>6</sup> On October 22, 2020, CBP acknowledged receipt of MasterBrand’s properly filed allegations.<sup>7</sup> Therefore,

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<sup>1</sup> As noted below in the “Consolidation of the Investigations” section, Trade Remedy Law Enforcement Directorate (TRLED) has consolidated these four EAPA investigations, and therefore, will refer to them generally hereafter as the “investigation.” Skyview indicated it had “brought containers in under [ entity name ]” during the period of investigation. See email from Skyview to CBP, dated January 20, 2021.

<sup>2</sup> See *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order*, 85 FR 22126 (U.S. Department Commerce, Apr. 21, 2020) and *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Countervailing Duty Order*, 85 FR 22134 (U.S. Department of Commerce Apr. 21, 2020), respectively. Those notices indicate the suspension of liquidation for CVD occurred for entries on or after August 12, 2019, and the suspension of liquidation for AD occurred for entries on or after October 9, 2019, the respective publication dates of the affirmative preliminary determinations in the U.S. Department of Commerce investigations.

<sup>3</sup> See 19 CFR 165.2.

<sup>4</sup> See 19 CFR 165.1.

<sup>5</sup> See the October 13, 2020 allegations filed by MasterBrand concerning PBM (“PBM Allegation”), Deco (“Deco Allegation”), and Skyview (“Skyview Allegation”), and the October 20, 2020 allegation filed by MasterBrand concerning Greentree (“Greentree Allegation”).

<sup>6</sup> See the October 21, 2020 emails entitled “Supplement to EAPA Allegation filed Against Pacific Building Material Inc.,” “Supplement to EAPA Allegation filed Against Deco Kitchen Cabinet & Bath, Inc.,” “Supplement to EAPA Allegation filed Against Skyview Cabinet USA Inc,” and “Supplement to EAPA Allegation filed Against Greentree Trading Company,” dated October 21, 2020.

<sup>7</sup> See the October 22, 2020 emails entitled “Receipt of EAPA Allegation 7553: Wooden Cabinets and Vanities and Components Thereof from China through Malaysia (PBM),” “Receipt of EAPA Allegation 7557: Wooden Cabinets and Vanities and Components Thereof from China through Malaysia (Deco),” “Receipt of EAPA Allegation 7558: Wooden Cabinets and Vanities and Components Thereof from China through Malaysia (Skyview),” and “Receipt of

the entries covered by the period of investigation (POI) are those entered for consumption, or withdrawn from warehouse for consumption, from October 22, 2019, through the pendency of this investigation.

## **Initiation**

As noted above, MasterBrand alleged that PBM, Deco, Skyview, and Greentree entered Chinese-origin WCV into the United States that were transshipped through Malaysia and falsely entered as Malaysian-origin merchandise to evade the aforementioned AD/CVD Orders. On November 13, 2020, based on the information in the Allegations summarized below, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP's Office of Trade, initiated investigations under EAPA for each of the Importers.<sup>8</sup>

TRLED will initiate an investigation if it determines that “{t}he information provided in the allegation... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion...”<sup>9</sup> Evasion is defined as the “entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.”<sup>10</sup> Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD order was entered into the United States by the importer alleged to be evading, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the claims made and evidence provided in the allegation, TRLED found that the Allegations reasonably suggested that PBM, Deco, Skyview, and Greentree have engaged in attempts to evade the aforementioned AD/CVD orders through the transshipment of WCV of Chinese-origin through Rowenda Kitchen Sdn Bhd (“Rowenda Kitchen”) in Malaysia and the failure to report merchandise as subject to those orders. Specifically, MasterBrand has submitted documentation suggesting WCV produced in China is being repackaged in Malaysia and then shipped to the United States for entry by the Importers, that the Importers are misrepresenting such merchandise as products of Malaysia rather than China, and that the Importers are failing to declare such merchandise as subject to the aforementioned AD/CVD orders.<sup>11</sup> That documentation includes:

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EAPA Allegation 7565: Wooden Cabinets and Vanities and Components Thereof from China through Malaysia (Greentree).”

<sup>8</sup> See the November 13, 2020 memoranda entitled Initiation of Investigation for EAPA Case Number 7553 – Pacific Building Material Inc. (“PBM Initiation”), Initiation of Investigation for EAPA Case Number 7557 – Deco Kitchen Cabinet & Bath, Inc. (“Deco Initiation”), Initiation of Investigation for EAPA Case Number 7558 – Skyview Cabinet USA Inc (“Skyview Initiation”), and Initiation of Investigation for EAPA Case Number 7565 – Greentree Trading Company (“Greentree Initiation”), collectively referred to as the “Initiation Memoranda”.

<sup>9</sup> See 19 CFR 165.15(b)(2).

<sup>10</sup> See 19 CFR 165.1 (setting forth the definition of “evasion” used here); *see also* 19 USC 1517(a)(5).

<sup>11</sup> See Initiation Memoranda.

- Aggregate trade data showing surges in overall imports into Malaysia from China, and into the United States from Malaysia, of merchandise under tariff classifications containing subject merchandise, following the imposition of provisional measures as a result of the Department of Commerce’s affirmative preliminary determination in its CVD investigation of WCV from China;<sup>12</sup>
- Company-specific shipment data sourced from [data source], indicating Rowenda Kitchen began shipping wooden cabinets to the United States in August 2019, the month in which the CVD investigation provisional measures were imposed, including shipments by Rowenda Kitchen to PBM, Deco, Skyview, and Greentree during the 2019-2020 period.<sup>13</sup>
- An affidavit from a market researcher citing statements by:
  - a) [ individual ], indicating that Rowenda Kitchen works with Chinese producers and engages in transshipment of Chinese-origin merchandise to the United States, including wooden cabinets produced in China;<sup>14</sup>
  - b) [ individuals ], who, in response to questions about [ topic of questions, and response ];<sup>15</sup>
  - c) [ individual ] that the Rowenda Kitchen facilities are relatively small, that they are equipped for minor processing such as wood treatment and painting rather than substantive manufacturing such as milling, that a nearby building was limited to administrative activities, and that showrooms were either closed down or unoccupied.<sup>16</sup>

Consequently, TRLED initiated investigations pursuant to 19 USC 1517(b)(1) and 19 CFR 165.15 of the Importers’ entries of covered merchandise that are alleged to have been entered for consumption into the customs territory of the United States through evasion.

### **Interim Measures**

Not later than 90 calendar days after initiating an investigation under EAPA, CBP will decide based on the record of the investigation if there is reasonable suspicion that such covered merchandise was entered into the United States through evasion.<sup>17</sup> If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures because based on the evidence of record, there is reasonable suspicion that PBM, Deco, Skyview, and Greentree entered covered

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<sup>12</sup> See PBM Initiation at 2 (citing PBM Allegation), Deco Initiation at 2 (citing Deco Allegation), Skyview Initiation at 2 (citing Skyview Allegation), and Greentree Initiation at 2 (citing Greentree Allegation).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> See PBM Initiation at 3 (citing PBM Allegation), Deco Initiation at 3 (citing Deco Allegation), Skyview Initiation at 3 (citing Skyview Allegation), and Greentree Initiation at 3 (citing Greentree Allegation).

<sup>16</sup> *Id.*

<sup>17</sup> See 19 CFR 165.24(a); 19 USC 1517(e).

merchandise into the customs territory of the United States through evasion by means of transshipment through Malaysia and failing to identify the shipments as covered merchandise.

### *CF-28 Responses and Analysis*

CBP issued CBP Form 28 (CF28) requests for information to PBM, Deco, Skyview, and Greentree. The CF28s requested various information including invoices, packing slips, bills of lading, sources of raw materials, and production records related to entries from Malaysia during the POI.

#### PBM

On November 20, 2020, CBP requested from PBM information concerning entry number [ entry # ]9727, and on December 29, 2020, PBM submitted a response.<sup>18</sup> After reviewing that response, CBP requested that PBM provide additional information, including information that had originally been requested from PBM, but which PBM had not provided in its December 29, 2020 response.<sup>19</sup> PBM submitted a response on January 18, 2021, but that response did not include requested information, most notably production records demonstrating the imported merchandise was produced by Rowenda Kitchen in Malaysia.<sup>20</sup> In emails dated January 20, 2021, and January 25, 2021, CBP requested again that PBM provide such information,<sup>21</sup> but such information was not received.<sup>22</sup>

#### Deco

On November 20, 2020, CBP requested from Deco information concerning entry number [ entry # ]3609, and on December 18, 2020, Deco submitted a response.<sup>23</sup> After reviewing that response, CBP requested that Deco provide additional information, including that which had originally been requested from Deco, but which Deco had not provided in its December 18, 2020 response.<sup>24</sup> Deco submitted a response on January 21, 2021, but that response did not include the requested production records demonstrating the imported merchandise was produced by Rowenda Kitchen in Malaysia.<sup>25</sup>

#### Skyview

On November 24, 2020, CBP requested from [ entity name ], under which Skyview indicated it had entered merchandise, information concerning entry number [ entry # ]7049, and on December 18, 2020, a response was submitted to CBP.<sup>26</sup> The response contained very little of

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<sup>18</sup> See CBP's CF28 to PBM, dated November 20, 2020, and PBM's CF28 Response, dated December 29, 2020, respectively.

<sup>19</sup> See email from CBP to PBM, dated January 7, 2021.

<sup>20</sup> See PBM's supplemental CF28 response, dated January 18, 2021.

<sup>21</sup> See emails from CBP to PBM, dated January 20, 2021 and January 25, 2021.

<sup>22</sup> PBM submitted what it referenced as a "Production Document," but nothing in the document appeared to tie to the entry in question, and, furthermore, dates on the document are inconsistent with what could apply to the entry in question. See PBM's second supplemental CF28 response, dated February 1, 2021.

<sup>23</sup> See CBP's CF28 to Deco, dated November 20, 2020, and PBM's CF28 Response, dated December 18, 2020, respectively.

<sup>24</sup> See emails from CBP to Deco, dated January 12, 2021.

<sup>25</sup> See Deco's supplemental CF28 response, dated January 21, 2021.

<sup>26</sup> See CBP's CF28 to [ entity name ], dated November 24, 2020, and [ entity name ] CF28 Response, dated December 18, 2020, respectively.

the requested information and included [ entity name ] direction to Rowenda Kitchen to provide CBP with certain information that CBP had requested from [ entity name ], including production records demonstrating the imported merchandise was produced by Rowenda Kitchen in Malaysia.<sup>27</sup> However, CBP did not receive that information, and CBP requested that information again from [ entity name ].<sup>28</sup> In response, [ entity name ] forwarded information provided in multiple responses by Rowenda Kitchen, but production records for the imported merchandise were absent from those responses.<sup>29</sup>

### Greentree Trading

On November 19, 2020, CBP requested from Greentree information concerning entry number [ entry # ]1952.<sup>30</sup> Greentree did not submit the requested information and did not do so after CBP repeated its request.<sup>31</sup>

### *Summary*

Based on the failure of PBM, Deco, Skyview, and Greentree to provide the requested production records demonstrating their imported merchandise was produced by Rowenda Kitchen in Malaysia, in conjunction with the aforementioned evidence submitted by the Allegor that CBP referenced in its initiation memoranda, TRLED has determined there is reasonable suspicion that those importers entered covered merchandise into the United States through evasion, by means of transshipment through Malaysia. Consequently, there is reasonable suspicion of evasion *via* transshipment.

### Enactment of Interim Measures

Based on the record evidence described above, CBP determines that reasonable suspicion exists that PBM, Deco, Skyview, and Greentree imported Chinese-origin WCV into the United States that were transshipped through Malaysia and should have been subject to the aforementioned AD/CVD Orders. Therefore, CBP is imposing interim measures pursuant to this investigation.<sup>32</sup> Specifically, in accordance with 19 USC 1517(e)(1-3), CBP shall:

- (1) suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after November 13, 2020, the date of the initiation of the investigation;
- (2) pursuant to the Commissioner's authority under 19 USC 1504(b), extend the period for liquidating each unliquidated entry of such covered merchandise that entered before the date of the initiation of the investigation: November 13, 2020; and
- (3) pursuant to the Commissioner's authority under 19 USC 1623, take such additional measures as the Commissioner determines necessary to protect the revenue of the United States, including requiring a single transaction bond or additional security or the posting of a cash deposit with respect to such covered merchandise.<sup>33</sup>

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<sup>27</sup> See [ entity name ] CF28 Response.

<sup>28</sup> See email from CBP to [ entity name ], dated January 28, 2021.

<sup>29</sup> See [ entity name ] Supplemental CF28 Responses, dated January 28, 2021 and February 9, 2021.

<sup>30</sup> See CBP's CF28 to Greentree, dated November 19, 2020.

<sup>31</sup> See email exchanges between CBP and Greentree concluding January 13, 2021.

<sup>32</sup> See 19 USC 1517(e); *see also* 19 CFR 165.24.

<sup>33</sup> *See also* 19 CFR 165.24(b)(1)(i-iii).

In addition, CBP will require live entry and reject any entry summaries that do not comply with live entry and require refiling of entries that are within the entry summary rejection period. CBP will also evaluate the Importers' continuous bonds to determine their sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

### **Consolidation of the Investigations**

TRLED is consolidating these investigations into a single investigation covering the Importers. The new consolidated case number will be EAPA Consolidated Case 7553, and a single administrative record will be maintained. At its discretion, CBP may consolidate multiple allegations against one or more importers into a single investigation, pursuant to 19 CFR 165.13(b), which stipulates that the factors that CBP may consider in consolidating multiple allegations include, but are not limited to, whether the multiple allegations involve: 1) relationships between the importers; 2) similarity of covered merchandise; 3) similarity of the AD/CVD orders; and 4) overlap in time periods of entries of covered merchandise. In these investigations, PBM, Deco, Skyview, and Greentree are alleged to have entered Chinese-origin WCV from Malaysia that are covered by the same AD/CVD orders. Their entries also fall within a common period of investigation. Moreover, the Importers all have a common supplier in Malaysia. Because factors warranting consolidation are present in these investigations, CBP is consolidating them and providing this notice pursuant to 19 CFR 165.13(c). TRLED notes that the deadlines for the consolidated investigation will be set from the date of initiation of the investigations, which is November 13, 2020.

For any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP; Timothy Brightbill, counsel for M&B, at TBrightbill@wiley.law; and the Importers via the respective email address referenced above (unless an alternative address is provided at a later date).<sup>34</sup>

Should you have any questions regarding this investigation, please feel free to contact us at eapallegations@cbp.dhs.gov. Please include "EAPA Cons Case 7553" in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP's website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>.

Sincerely,



Brian M. Hoxie  
Director, Enforcement Operations Division  
Trade Remedy Law Enforcement Directorate  
CBP Office of Trade

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<sup>34</sup> For further information on the submission of public summaries as well as guidance on their content and proper marking, please refer to 19 CFR 165.4, 165.23(c), and 165.26.