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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

15 **STATE OF CALIFORNIA, COUNTY OF**  
16 **LOS ANGELES, REGENTS OF THE**  
17 **UNIVERSITY OF CALIFORNIA, and**  
18 **BOARD OF TRUSTEES OF THE**  
19 **CALIFORNIA STATE UNIVERSITY, and**  
**ROES 1-200, ex rel. CHRISTOPHER J.**  
**SCHROEN, an individual,**

20 Plaintiffs,

21 vs.

22 **BP AMERICA PRODUCTION**  
23 **COMPANY, a Delaware corporation; BP**  
24 **ENERGY COMPANY, a Delaware**  
25 **corporation; BP CORPORATION NORTH**  
26 **AMERICA, INC., Inc., an Indiana**  
27 **corporation; BP PRODUCTS NORTH**  
28 **AMERICA, INC., a Maryland corporation;**  
**BP PLC, a UK corporation; and DOES 1-20;**

Defendants.

ENDORSED  
FILED  
San Francisco County Superior Court

JUL 03 2017

CLERK OF THE COURT  
BY: DEBORAH STEPPE  
Deputy Clerk

Case No. CGC-12-522063

**COMPLAINT FOR MONEY DAMAGES  
AND CIVIL PENALTIES FOR  
VIOLATIONS OF CALIFORNIA FALSE  
CLAIMS ACT**

**FILED UNDER SEAL  
PURSUANT TO  
Cal. Gov. Code § 12652(c)(2)**

**DEMAND FOR JURY TRIAL**

**COPY**

Law Offices  
COTCHETT, PITRE  
& McCARTHY, LLP  
**COMPLAINT**

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1 **I. INTRODUCTION**

2 1. This suit calls Defendants to answer for defrauding California's taxpayers out of  
3 hundreds of millions of dollars for illegally inflating the price of natural gas sold to California and  
4 its political subdivisions. This is a *qui tam* action on behalf of Plaintiffs State of California,  
5 County of Los Angeles, Regents of the University of California, Board of Trustees of the  
6 California State University, and other political subdivisions of the State of California  
7 (collectively, "Plaintiffs"), for violation of California's False Claims Act, Gov. Code §§ 12650 *et*  
8 *seq.*, to recover treble damages, civil penalties and attorneys' fees and costs, for fraudulent  
9 overcharges. Non-public information personally known to *Qui Tam* Plaintiff CHRISTOPHER  
10 SCHROEN serves as the basis for this complaint.

11 2. As detailed below, Defendants made false claims to Plaintiffs by overcharging  
12 Plaintiffs for purchases of natural gas that were governed by contracts between the California  
13 Department of General Services ("DGS") and Defendant BP.

14 3. Defendants fraudulently concealed markups and overcharges from Plaintiffs by  
15 means of false claims and misrepresentations, as described in this Complaint.

16 4. Defendants BP, plc ("BP"), BP America Production Company ("BPAPC"), BP  
17 Energy Company ("BPEC"), BP Corporation North America, Inc. ("BPCNA") and BP Products  
18 North America, Inc. ("BPPNA") (collectively referred to herein as "BP" or "Defendants")  
19 conspired to artificially increase, conceal and overcharge Plaintiffs for the purchase of natural gas  
20 through DGS' Natural Gas Services ("NGS") program.

21 5. Defendants were the exclusive supplier of natural gas to DGS, which in turn is the  
22 primary supplier of natural gas to large public facilities and local governments in California. In  
23 the 2008-2009 fiscal year, DGS provided over 315.5 million therms,<sup>1</sup> or 2.6% of all natural gas  
24 used in California, for a total price of nearly **\$250,000,000**. The NGS program comprises over  
25 20% of the total DGS budget. DGS handles all gas supply and delivery arrangements, both with  
26 the gas suppliers (BP) and utility companies.

27 \_\_\_\_\_  
28 <sup>1</sup> A therm is approximately equivalent to the amount of energy generated from burning 100 cubic feet of natural gas.



1           6.       The significance of the NGS program for state and local government facilities that  
2 rely on DGS to obtain favorable natural gas prices cannot be understated. This includes the  
3 County of Los Angeles, which serves 88 cities, is one of the largest counties by population in the  
4 nation, and home to 27% of all residents in California. In addition, the University of California  
5 maintains 10 campuses and several medical centers, and includes over 2,500 buildings and  
6 facilities. California State University is the largest university system in the nation, comprising 23  
7 campuses that serve hundreds of thousands of students.

8           7.       BP won a request for proposal to become the exclusive supplier of natural gas to  
9 the NGS program prior to 2004. Under the contract, BP was obligated to sell NGS its full  
10 requirements of natural gas and had a virtual monopoly on the natural gas sold to NGS. BP  
11 employed its own internal marketers and traders to sell the natural gas to NGS. *Qui Tam* Plaintiff  
12 SCHROEN was one of those marketers.

13           8.       The terms of the contracts between BP and DGS for the NGS program allowed  
14 two pricing methodologies for the sale of natural gas to DGS. First, BP could sell gas to DGS on  
15 the basis of "index pricing," which set the price at a published index price which fluctuated with  
16 the market, plus a stated profit of \$0.002/MMBtu.<sup>2</sup> Alternatively, DGS could elect to limit  
17 exposure to fluctuations in the volatile natural gas market by entering into "Special Purchase"  
18 transactions. BP's contracts with DGS/NGS restricted BP's margin of profit on gas sold pursuant  
19 to Special Purchases to \$0.15/MMBtu.

20           9.       In reality, BP's management manipulated its profit margin to exceed any  
21 reasonable amount of profit and greatly exceeded these contractual caps. The amount of  
22 overcharging to Plaintiffs on Special Purchases was rarely less than **three times greater** than  
23 allowed under the contract, and was **often five to six times the cap**.

24           10.       Moreover, BP's excessive and illegal markup did not capture the entirety of BP's  
25 illicit profits. BP's traders who sold natural gas to DGS were required to obtain that gas only  
26

27 <sup>2</sup> An MMBtu is a million Btu (British Thermal Units). A Btu is the amount of heat required to raise the temperature  
28 of one 1 pound (0.454 kg) of liquid water by 1 °F (0.556 °C) at a constant pressure of one atmosphere.



1 from internal BP counterparts and could not obtain natural gas at competitive market prices.  
2 Those internal BP counterparts – knowing that the ultimate purchaser of the natural gas was  
3 DGS—provided BP traders with gas at prices that were inflated far above commercial market  
4 prices. Once the traders received the inflated “market” price from the concealed BP monopoly,  
5 the traders then added a margin on top of the existing markup. This practice was known within  
6 BP as “margin pancaking” or “margin stacking.”

7 11. BP management had actual knowledge, on a daily basis, of the fact of  
8 overcharging, and of the significant amounts that were involved. BP had actual knowledge of the  
9 difference between the price at which BP sold natural gas to its captive customer DGS, and the  
10 price at which BP sold natural gas to other parties in and outside the state of California on the  
11 same day. Management within BP had actual knowledge, day by day, week by week, month by  
12 month, and year by year, of the fact that the profits illegally extracted from California taxpayers  
13 was, by several orders of magnitude, the largest margin account in the company and greatly  
14 exceeded the contractual limits BP had agreed to.

15 12. BP’s actions to defraud Plaintiffs began prior to 2004. Between 2004 and 2012,  
16 when *Qui Tam* Plaintiff SCHROEN was fired by BP, the total volume of natural gas sold by BP  
17 to the NGS program was between at least **\$1.5 billion and \$2 billion**. The fraudulent  
18 overcharges consisted of at least **10%-15%** of those charges, or at least **\$150 million to \$300**  
19 **million**. The entire scam was known to, and approved by, BP management.

## 20 **II. PARTIES**

21 13. The Plaintiffs in this action are the STATE OF CALIFORNIA, COUNTY OF LOS  
22 ANGELES, THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, and THE BOARD OF  
23 TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, and ROES 1 through 200, through  
24 *Qui Tam* Plaintiff CHRISTOPHER SCHROEN. The STATE OF CALIFORNIA is not a citizen  
25 of California for diversity jurisdiction purposes under 28 U.S.C. § 1332.

26 14. THE UNIVERSITY OF CALIFORNIA is governed by THE REGENTS, which  
27 under Article IX, Section 9 of the California Constitution has “full powers of organization and  
28



1 governance” subject only to very specific areas of legislative control. Established in 1868, the  
2 UNIVERSITY OF CALIFORNIA is one of the premier universities in the world. Pursuant to  
3 California Government Code section 12652.5, the University of California is considered a  
4 political subdivision for purposes of the California False Claims Act.

5 15. THE BOARD OF TRUSTEES is responsible for the oversight of the  
6 CALIFORNIA STATE UNIVERSITY. THE BOARD OF TRUSTEES adopts rules, regulations,  
7 and policies governing the CALIFORNIA STATE UNIVERSITY. THE BOARD OF  
8 TRUSTEES has authority over curricular development, use of property, development of facilities,  
9 and fiscal and human resources management.

10 16. Plaintiffs ROES 1 through 200 are political subdivisions of the State of California.  
11 ROES 1 through 200 purchased natural gas from BP, through NGS, at inflated fraudulent prices,  
12 based in whole or in part on the falsely inflated prices of gas sold by BP to NGS. *Qui Tam*  
13 Plaintiff will amend this complaint to allege the true names and capacities of the fictitiously  
14 named Plaintiffs once confirmed.

15 17. *Qui Tam* Plaintiff CHRISTOPHER SCHROEN (“SCHROEN”) is a former  
16 employee of defendant BP AMERICAN PRODUCTION COMPANY (“BPAPC”). SCHROEN  
17 was employed by BPAPC from 2004 through 2012. SCHROEN is a citizen of the state of Texas.

18 18. Defendant BP plc is a United Kingdom corporation with its principal executive  
19 offices located in London, England. BP plc does business in the state of California. A sampling  
20 of BP’s contacts with the United States are as follows: (a) BP is the largest oil and gas producer  
21 in the U.S.; (b) BP has 40 percent of its assets and workers in North America; (c) BP’s ADSs are  
22 listed on the New York Stock Exchange and BP is the largest non-U.S. company listed on the  
23 NYSE; (d) BP’s ordinary shares are listed on the NYSE in connection with its ADS program; (e)  
24 roughly 40% of BP’s ordinary common shares are owned by individuals and institutions within  
25 the U.S.; and (f) BP files annual reports and other documents with the U.S. Securities and  
26 Exchange Commission.



1           19. Defendant BP AMERICAN PRODUCTION COMPANY (“BPAPC”) is a  
2 Delaware corporation with its principal place of business in Houston, Texas. BPAPC is licensed  
3 to do business in the state of California (Entity Number C0738422) and does business in the  
4 County of San Francisco.

5           20. Defendant BP PRODUCTS NORTH AMERICA (“BPPNA”) is a Maryland  
6 corporation with its principal place of business in Warrenville, Illinois. BPPNA is licensed to do  
7 business in the state of California (Entity Number C0404424) and does business in the County of  
8 San Francisco.

9           21. Defendant BP ENERGY COMPANY (“BPEC”) is a Delaware corporation with its  
10 principal place of business in Houston, Texas. BPEC is licensed to do business in the state of  
11 California (Entity Number C1817708) and does business in the County of San Francisco. BPEC  
12 is the contracting party for all transactions involving the physical delivery or receipt of natural gas  
13 with the California Department of General Services.

14           22. Defendant BP CORPORATION NORTH AMERICA, INC. (“BPCNA”) is an  
15 Indiana corporation with its principal place of business in Houston, Texas. BPCNA is licensed to  
16 do business in the state of California (Entity Number C1581338) and does business in the County  
17 of San Francisco.

18           23. Defendants BP plc, BPAPC, BPPNA, BPEC, and BPCNA are referred to herein  
19 collectively as “BP.”

20           24. *Qui Tam* Plaintiff is ignorant of the names and capacities of the Defendants sued  
21 herein as DOES 1 through 20, inclusive, and therefore sues such Defendants by fictitious names  
22 pursuant to California Code of Civil Procedure section 474. *Qui Tam* Plaintiff will amend this  
23 complaint to allege the true names and capacities of the fictitiously named Defendants once  
24 ascertained. *Qui Tam* Plaintiff is informed and believes that Defendants Does 1 through 20,  
25 inclusive, are in some manner responsible for the actions alleged herein.

26           25. At all times relevant to this Complaint, Defendants, and each of them, were acting  
27 as the agents, servants, employees, joint venturers, and/or representatives of each other, and were  
28



1 acting within the course and scope of their agency, employment and/or joint venture, with the full  
2 knowledge, consent, permission, authorization and ratification, either express or implied, of each  
3 of the other Defendants in performing the acts alleged in this Complaint.

4         26. Defendants, and each of them, participated as members of a conspiracy and/or  
5 aided and abetted one another in furtherance of the schemes herein alleged, or assisted one  
6 another in carrying out the purpose of the conspiracy alleged herein, and have performed acts and  
7 made statements in furtherance of the conspiracy in violation of California law. Each of the  
8 Defendants acted both individually and in concert with the other Defendants with full knowledge  
9 of their respective wrongful conduct. As such, the Defendants conspired together, building upon  
10 each other's wrongdoing, in order to accomplish the acts outlined in this Complaint. Defendants  
11 are individually sued as principals, participants, and/or as aiders and abettors in the wrongful  
12 conduct complained of, and the liability of each arises from the fact that each has engaged in all  
13 or part of the improper acts, plans, schemes, conspiracies, or transactions complained of herein.

14 **III. JURISDICTION AND VENUE**

15         27. Venue is proper in this county because Defendants contracted to deliver natural  
16 gas to this county, and one or more of the Defendants can be found in, reside in, and/or transact  
17 business in this county. Venue is further proper in this county because Defendants' obligations  
18 and liability arose in this county. Specifically, among other things, Defendants contracted to  
19 deliver natural gas to U.C. San Francisco and U.C. San Francisco Medical Center, and those  
20 entities provided funds to pay Defendants for falsely inflated prices for natural gas, as described  
21 more fully herein.

22         28. This Court has jurisdiction under the California False Claims Act, Cal. Gov. Code  
23 § 12652(c)(2).

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1 **IV. BP VIOLATED THE CALIFORNIA FALSE CLAIMS BY FALSELY AND**  
2 **FRAUDULENTLY OVERCHARGING PLAINTIFFS FOR NATURAL GAS**

3 **A. Overview of BP's Scheme**

4 29. BP plc is one of the world's largest energy companies. BP plc is the leading  
5 supplier of physical natural gas in North America with more than 3,000 counterparties. BP's  
6 massive size, and the magnitude of support it routinely utilizes allowed it to treat unfairly the  
7 under-staffed and under-funded State of California natural gas procurement agency, DGS. DGS  
8 had only two people who dealt with BP; a program manager and an outside consultant.

9 30. DGS's NGS program is comprised of four staff members: a program manager,  
10 Marshall Clark, who has the responsibility for overseeing program operations, and three  
11 employees that focus on office administrative functions, such as processing gas supplier and  
12 utility payments and recovering program costs from customers. The program is assisted by two  
13 contracted consultants: one for legal services and one for natural gas advisory services, Nancy  
14 Moon.

15 31. NGS also receives legal assistance from an assigned attorney with the DGS Office  
16 of Legal Services. The contracted legal consultant provides numerous advisory services including  
17 those involving the regulatory aspects of the program. Ms. Moon has been with the program over  
18 15 years and is of primary importance to the success of the program. Ms. Moon works with NGS  
19 program staff on almost a daily basis and provides a wide range of program support services  
20 required in the overall natural gas supply process as well as direction and guidance in commodity  
21 purchases and program design and implementation.

22 32. DGS is the primary supplier of natural gas in California to large facilities of state  
23 and local governments. In the 2008-2009 fiscal year, the NGS program provided over 315.5  
24 million therms (over 2.6% of all the gas used in California) to 175 customers, at a total price of  
25 over \$247,000,000. The budget for the NGS program constitutes over 20% of the total budget of  
26 the DGS. NGS handles all gas supply and delivery arrangements, both with the gas suppliers and  
27 the gas utility companies.  
28



1           33.     DGS purchased natural gas exclusively from BP, and BP was obligated to sell  
2 DGS its full requirements of natural gas. Accordingly, BP had a virtual monopoly on gas sold to  
3 DGS. The BP marketers who arranged for the sales of natural gas to DGS were required by BP to  
4 “purchase” that gas from internal BP traders, as opposed to in the open market. Those internal BP  
5 traders supplying natural gas to the BP marketers, recognizing the virtual monopoly BP had on  
6 DGS, artificially inflated the price at which they sold natural gas to the BP marketers. The BP  
7 marketers, in turn, compounded the overcharging by also overcharging on the “retail” side when  
8 they sold the gas to California at a price that was much higher than the price at which they  
9 “bought” the gas from their internal BP traders. The fact that BP was making an exorbitant profit  
10 on both sides of all DGS deals was never disclosed to California. The overcharging and the  
11 amount and extent of overcharging is reflected in the “books” of the internal BP traders. These  
12 books and the margin of profit realized by the internal BP traders were reviewed by senior BP  
13 management on a daily basis. At the same time that California was being overcharged in this  
14 fashion by BP, the same books will show other internal “sales” of gas that would be ultimately  
15 sold to parties other than DGS for much lower prices in which the trader earned a fraction of the  
16 profit per MMBtu as compared to that gas attributed to deals involving DGS.

17           34.     On information and belief there are two distinct pricing methodologies for natural  
18 gas sold by BP to DGS. First, BP could sell gas to DGS on the basis of index pricing, which set  
19 the price for the natural gas at a published index price (which would fluctuate with the market)  
20 plus a stated profit of \$0.002/MMBtu. As an alternative to that method, participants in the NGS  
21 program could elect to limit their exposure to fluctuations in the volatile natural gas market by  
22 entering into “Special Purchase” transactions. BP’s contract with DGS/NGS restricted BP’s  
23 margin of profit for gas sold pursuant to such Special Purchases to \$0.15/MMBtu. SCHROEN  
24 was unaware of these caps until shortly before he was terminated.

25           35.     SCHROEN dealt with the DGS/NGS account, as the lowest man on the BP totem  
26 pole. The DGS/NGS account was managed by Scott Bond of BP when SCHROEN arrived, and  
27 Bond continued to manage the account until Bond left BP in 2010. SCHROEN came on board in  
28



1 2004, and was indoctrinated into the manner in which BP was doing business with DGS. The  
2 scam described herein existed before Schroen arrived at BP and continued after he left BP.  
3 Schroen was supervised by Provenzano, and his trading activity with DGS was monitored on a  
4 daily basis, deal by deal. SCHROEN was instructed with respect the general manner in which BP  
5 transacted business with DGS and with respect to the base line profit margin he was to achieve,  
6 and until the end of his tenure he was highly praised for the effective job that he did on behalf of  
7 BP.

8 36. SCHROEN worked on the DGS/NGS account from 2004 until he was fired in  
9 2012. He has first-hand knowledge of the manner in which BP did business with DGS, and how  
10 BP maximized its profits at the expense of Plaintiffs.

11 37. For most of his tenure, SCHROEN worked under the principal on the DGS  
12 account, Scott Bond, who worked out of Irvine, California. SCHROEN only had the authority to  
13 structure deals with California consistent with the wishes of his supervisors and the management  
14 of BP. At all times SCHROEN's trading activities were monitored on a daily basis and on a deal-  
15 by-deal basis. Until the end of his employment, he was urged and incentivized to maximize BP's  
16 profits.

17 38. Any deal proposed by SCHROEN to DGS/NGS had to be approved by BP after  
18 the fact. SCHROEN was required by BP to obtain natural gas only from internal BP counterparts  
19 and could not, therefore, obtain natural gas at competitive market prices.

20 39. Once SCHROEN received the inflated "market" price from the hidden BP  
21 monopoly, BP's model required SCHROEN to build into the Special Purchase deals with DGS a  
22 margin on top of the margin already put in the deal by other BP personnel.

23 40. SCHROEN's work performance was judged on his "book," so he was required, as  
24 part of his job performance and rating, to add margin on top of whatever margin had already been  
25 placed on the gas by the internal BP trader. This practice was known within BP as "margin  
26 pancaking" or "margin stacking." BP paid its people extravagant bonuses based on these out-of-  
27 control margins.



1           41.     At each level of the margin stacking, BP's profit margin exceeded any reasonable  
2 amount of profit, usually by orders of magnitude. The amount of overcharging to the State of  
3 California on Special Purchases was at times many multiples of what would be considered a  
4 reasonable profit. It was often 5 or 6 times the \$0.15/MMBtu cap, which itself is generally  
5 regarded as well above market, and was rarely less than 3 times that amount.

6           **B.     The California DGS Transactions**

7           **1.     DGS and NGS**

8           42.     DGS serves as business manager for the State of California. DGS provides a  
9 variety of services to state agencies through procurement and acquisition solutions, real estate  
10 management and design, environmentally friendly transportation, professional printing, design  
11 and web services, and funding for the creation and construction of safe schools.

12          43.     DGS's NGS program is the primary supplier of natural gas in California to large  
13 facilities of state and local governments. NGS can arrange for gas delivery and price risk  
14 management services. Participation in the NGS program is voluntary. NGS has the ability to  
15 take a relatively small volume of gas that would be considered "retail" and aggregate that volume  
16 with similar volumes from numerous state customers in order to bring to the negotiating table a  
17 much larger volume, which would theoretically allow NGS to buy natural gas at a lower  
18 "wholesale" rate.

19          44.     The NGS program is funded from fees charged to customers for delivered natural  
20 gas. The volume and amount of natural gas purchased from or through BP for the California  
21 governmental entities, the Plaintiffs in this case, is substantial. For example, in the 2008-09 fiscal  
22 year NGS provided gas to 175 customers, at an aggregate price of approximately a quarter of a  
23 billion dollars, which comprised a substantial percentage of the total budget of the DGS.

24          45.     NGS customers can participate in one or five year contracts with DGS through the  
25 NGS program. NGS program customers include the University of California system, the  
26 California State University system, the California prison system, the County of Los Angeles, and  
27 the "pool," which aggregates numerous smaller governmental subdivisions. SCHROEN estimates  
28



1 that in the last decade the total amount of purchases made by DGS through BP range from  
2 \$150,000,000 to \$250,000,000 annually for an approximate total of \$2,000,000,000. At all  
3 pertinent times, Defendants knew that the fraudulently inflated prices for gas they sold to NGS  
4 would be passed along to NGS's governmental customers.

5 **2. The Contract Between DGS and BP**

6 46. After engaging in the required preliminaries, including a response to a Request for  
7 Proposal ("RFP"), BPEC and DGS entered into a Base Contract for Sale and Purchase of Natural  
8 Gas pursuant to which BPEC agreed to sell DGS the full requirements of DGS's 150-175  
9 program customers of natural gas ("DGS Contract"). BPEC has successfully won the RFP for the  
10 last several years, and the most recent contract provided for a relationship initially through 2014  
11 and then through 2017. The DGS Contract is comprised of the terms and conditions of the DGS  
12 RFP and a NAESB Agreement, which is an industry-standard form gas purchase and sales  
13 agreement. Orlando Alvarez signed the DGS Contract for BP.

14 47. BP's primary contact for DGS was an outside consultant based in Michigan named  
15 Nancy Moon at Moonlighting Consulting ("Moon"), and the internal DGS contact was Marshall  
16 D. Clark, whose title is Manager, Natural Gas Services ("Clark"). Moon and Clark did an  
17 outstanding job of providing the State of California with sufficient quantities of natural gas during  
18 a period when California was suffering severe financial hardship.

19 48. The manner in which BP took advantage of that relationship was not readily  
20 ascertainable to either Clark or Moon. BP management personnel, on the other hand, were  
21 actually aware of the overcharging at each step of the process.

22 49. Generally speaking, the DGS Contract allowed the DGS program customers to  
23 choose between two pricing mechanisms. DGS customers could choose 'Index Pricing,' which  
24 was based on a specified, published monthly index price indicating gas prices at two locations in  
25 California – Malin and the SoCal Border – plus \$.002/MMBtu. The price for gas purchased  
26 under Index Pricing would fluctuate with the market. In a steady or falling market, Index Pricing  
27 would often be preferred, but in a market that is rising or expected to rise, or in a market with  
28



1 ongoing fluctuations, the customer could also choose 'Special Purchases,' which would allow the  
2 DGS customers to fix their natural gas prices for periods lasting from several months to several  
3 years.

4 50. The DGS Contract restricted BPEC's margin on such Special Purchases to  
5 \$.15/MMBtu. This provision is particularly important, given the full requirements nature of the  
6 contract, and the internal limitations established by BP regarding BP's sourcing of natural gas to  
7 be sold to California. DGS was obligated to purchase from BP, and without an internal limitation  
8 on profit, DGS was at the mercy of whatever BP wished to charge. With respect to the conduct at  
9 issue here, BP abused that position of trust and confidence, manipulating both what the "market"  
10 was, and obscuring the true "margins" or profits that it made off of the State of California.

11 51. The price for each month of a Special Purchase could vary, but would be  
12 established at the outset, irrespective of market movements. The strategy employed would be to  
13 lock in certain rates at certain times, and reduce the effect of market movement. During the  
14 applicable time frame natural gas prices hit record highs, but then fell precipitously. Accordingly,  
15 many DGS customers chose Special Purchases in order to have a known price for their natural  
16 gas, and to not be subject to the volatility of the market. The DGS customers were attempting to  
17 lock in lower prices and avoid potential market upswings, which also allowed them to set budgets.  
18 SCHROEN estimates that at their peak, **Special Purchases comprised approximately 70% of**  
19 **the DGS program.** There were several pools of transactions within the Special Purchase  
20 category. Each transaction could be and often was restructured as the market moved. As  
21 originally constituted, the transactions exceeded the maximum allowable margins, and in almost  
22 every case an overcharging occurred. In addition, these transactions were habitually  
23 'restructured', maintaining the original overcharge, with additional overcharging built in to the  
24 "new" deal. The margin stacking was thus compounded over and over again.

25 3. **The First Step in Overcharging: Internal BP Margin Inflation**

26 52. In putting together Special Purchase gas sales transactions SCHROEN was  
27 hampered by being limited to buying the natural gas that he sold to customers only from internal  
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1 BP sources. He could mix and match variations of a NYMEX Swap, a basis swap, physical index  
2 volumes, and gas options. Each of these sources allowed SCHROEN to fix a price at a particular  
3 time, or according to a particular formula, in lieu of merely accepting the market price  
4 fluctuations over time. BP had internal traders each with his or her own success rate dealing with  
5 these sources of natural gas for eventual sale and delivery to California, and thus each had a profit  
6 motive for enhancing the BP profit on a trade that was between BP and BP.

7 53. SCHROEN was required by BP to go exclusively to internal BP personnel for such  
8 arrangements. Each of the BP traders had a "book," which was a record of that trader's trades, so  
9 that BP could keep track of the profitability of a particular trader's actions. The traders' deals in  
10 which DGS natural gas sales were involved appear explicitly in the BP NYMEX Trading Book  
11 for that book of business, in the NoCal Book for that book of business, in the Gas Daily Options  
12 Book, for that type of business, and so on. **Even a cursory examination of those books will**  
13 **reveal that natural gas, simultaneously sold to non-DGS customers was much, much**  
14 **cheaper than natural gas BP sold to DGS.** The internal BP traders knew when SCHROEN was  
15 coming to them for gas to be sold to DGS, and systematically and dramatically inflated their  
16 prices when he did so.

17 54. In the usual circumstance, the BP traders who were supplying SCHROEN were  
18 constricted by market forces, because any excessive margin built in to the price they gave the  
19 originator would make it impossible for BP to consummate the deal with the outside party. If the  
20 resultant price was not competitive, the prospective customer would merely buy its product from  
21 a more reasonably priced supplier.

22 55. The DGS Contract was a full-requirements contract, however, so BP knew it had a  
23 captive customer. Accordingly, the normal market pressures did not limit the margins that the  
24 internal BP traders included in the DGS deals. Any contractual limitation on margin also did not  
25 limit the margins that were included by BP on the California deals, because prior to 2011, they  
26 were ignored. It quickly became clear to BP internal traders that market pressures were not a real  
27 consideration on the DGS deals, and they behaved accordingly. The contrast between the pricing  
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1 for the DGS transactions and all other contemporaneous transactions was stark, and obvious to  
2 several layers of BP management.

3 56. In fact, prior to December of 2011, no one at BP acted in compliance with the  
4 \$.15/MMBtu restriction on BP's margin. When SCHROEN made purchases for ultimate sale to  
5 DGS, his internal BP counterparts routinely built in more margin, because the DGS Contract was  
6 a full-requirements contract. Accordingly, the sources that SCHROEN was required by BP to use  
7 provided him prices well above market.

8 **4. The Second Step in Overcharging: Margin Stacking**

9 57. SCHROEN, in turn, would be required by BP's methodology to add even more  
10 margin because the effectiveness and the profitability of his book and his group was based on the  
11 margin on his end, irrespective of the profit BP earned from its internal sales to SCHROEN.  
12 SCHROEN's supervisor, and BP management, expected SCHROEN to produce margin or profit.  
13 BP encouraged the traders to maximize their DGS margin, and similarly encouraged SCHROEN  
14 to maximize his margin.

15 58. This margin stacking or profit stacking was a method employed by BP to  
16 maximize its profit and to defraud and take advantage of its captive customer, DGS. The precise  
17 manner in which this occurred was concealed from those individuals acting on behalf of DGS.

18 59. After this initial stacking, the process was repeated, sometimes two or three times,  
19 by "restructuring" deals. When a deal was restructured by BP it "stacked" additional margins or  
20 profit each time, and that new "stacking" – by itself – typically exceeded the amounts that BP  
21 could lawfully charge.

22 **5. BP Managers and Executives Oversaw, Approved, and Encouraged**  
23 **the Overcharges, on a Daily Basis**

24 60. While the astronomical margins the BP traders were achieving were concealed  
25 from DGS, they were not concealed from BP management. To the contrary, BP management had  
26 complete knowledge of those margins, on a daily basis. When a BP trader makes a trade within  
27 BP, that trader enters into the BP system the cost of the natural gas to the trader, and the sales  
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1 price of the gas to SCHROEN. The difference between those two numbers would be the margin,  
2 or the profit, on that trader's book of business. That would also be the profit to BP, and the book  
3 of profits of the trader was therefore a significant factor for continued employment, as well as the  
4 basis for raises or bonuses. Significantly, a BP risk manager would, each day, confirm the  
5 volume of the traders' books, and BP would track the profit or loss of its traders in that fashion.  
6 Thus, for each trade to SCHROEN for a DGS deal, BP knew, on a daily basis, the exact amount  
7 of margin, or profit, that BP made on this first piece of a DGS deal. In almost all cases, this first  
8 piece of the margin exceeded any reasonable range, and what is believed to be the maximum  
9 margin allowed under the DGS contracts.

10 61. On the other side – or second piece – of the BP deal with DGS, SCHROEN would  
11 also have a book of business, and for each sale or deal done with DGS, he would enter into the  
12 system the price at which he acquired the gas from BP internal sources (by identifying his trading  
13 partner), the sales price to DGS, and the difference, which constitutes SCHROEN's margin.  
14 Once again that margin was incremental profit realized by BP on SCHROEN's part of the deal.  
15 This number was also used for providing bonuses to BP personnel involved. SCHROEN's book  
16 was reviewed and reconciled by a risk manager every day. The day after SCHROEN entered the  
17 margin or profit on his books, the information would be confirmed and "hard dollars" would  
18 appear in his book. The risk manager would calculate the total margin, and ask SCHROEN if he  
19 was expecting that amount to show up as "hard" dollars based on the computer entries. If  
20 SCHROEN agreed, it would be assumed that the computer entries were correct. If he did not  
21 agree, the parties would reconcile to determine whose expectation was correct.

22 62. In addition to the BP risk manager, there was another level of managerial oversight  
23 of the margin pancaking. SCHROEN's boss, Steve Provenzano, maintained a reconciliation  
24 spreadsheet, and **Provenzano verified the margin numbers for each individual trade daily** –  
25 not just the total volume and amount of the previous day's trading. Thus, BP had daily notice that  
26 its charges for gas sold to DGS greatly exceeded the limits of contract or reason and far  
27 outstripped comparable, contemporaneous sales to other parties. It was widely known within BP  
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1 that the margins to DGS were the highest of any customer of BP, and Provenzano specifically,  
2 and BP generally, actively promoted continuation and expansion of the DGS margins.

3 63. These transactions were also accounted for by BP's CACTIS system. Analysts  
4 tied out the prices and volumes each day, and another BP risk control person double-checked that  
5 tie out the following day after 'hard dollars' were posted in the CACTIS system. The term "tie  
6 out" refers to the reconciliation of the various entries in a cross-checking system, and the term  
7 "hard dollars" refers to a trade that appeared in the BP system that had been verified by someone  
8 other than the trader or originator of the trade or deal. Every transaction was thus relayed to and  
9 approved by BP personnel other than SCHROEN.

10 64. BP also engaged in a review of its systems more generally, so that it could  
11 determine the details of its business. The BP/DGS deal numbers were available to BP personnel  
12 much higher up than even SCHROEN's immediate supervisors. In addition, the volume of the  
13 BP/DGS deal was so substantial that it received independent consideration by outside auditors of  
14 BP, including Ernst & Young.

15 65. The DGS transactions were also unusual because, as per the DGS Contract, DGS  
16 was the party responsible for generating the trade confirmations. In almost all other trading  
17 contracts, BP was the confirming party, meaning BP would prepare a confirmation of the terms of  
18 the trade, and send it to the customer for acceptance. With DGS transactions, in contrast, the  
19 DGS Contract required DGS to send BP a confirmation sheet, which became effective upon BP's  
20 approval (or the expiration of time within which to reject the deal). In practice, of course, BP  
21 originated the confirmation sheet, and fully controlled the terms of the transaction – DGS  
22 rightfully trusted BP, the purported experts, to structure deals that were competitive and  
23 compliant with the DGS contract.

24 66. This confirmation structure added another level of complicity and knowledge  
25 within BP. Specifically, SCHROEN, though he set up the deals, did not have ultimate authority  
26 to accept or reject the confirmation sheets that were sent back from DGS. Accordingly, each  
27 trade set up by SCHROEN for DGS was reviewed by BP on a daily basis. Thereafter, someone at  
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1 BP other than SCHROEN had the ability to reject the proposed deal if they did so within a  
2 particular time frame. BP in practice approved both sides of the deals on every trade – it  
3 reviewed every deal on a daily basis, and it either accepted or rejected the deal during the  
4 confirmation time frame. At no time did SCHROEN act independently. BP falsely charged  
5 California for natural gas with full knowledge of its actions at every stage of the process.

6 67. There was no way for DGS to know that BP was manipulating its internal  
7 “market” so that the DGS “market” was in fact out of line with what a true market price would be.  
8 Due to the intricate structure of the deals as they evolved over time, the true nature and extent of  
9 BP’s scheme to defraud California was effectively hidden and concealed from DGS and Moon.  
10 The faulty procedures in place to oversee the internal BP activities and the limitations inherent in  
11 having the DGS deals on a manual and not automated process, allowed BP to extract from  
12 California millions of dollars that it was not entitled to take.

13 **C. BP’s Knowledge of and Role in the Scheme**

14 68. As described above, BP had actual knowledge, on a daily basis, of the fact of  
15 overcharging, and of the overall amounts that were involved, as well as the stark difference  
16 between the price at which BP sold natural gas to its captive customer DGS and the price at which  
17 BP sold natural gas to other parties in and outside the State of California on that same day.  
18 Management at BP had actual knowledge, day by day, week by week, month by month, and year  
19 by year, of the fact that the profit extracted from California was, by several orders of magnitude,  
20 the largest margin account in the company.

21 69. BP plc is the ultimate BP parent company. IST is a group within BP that is BP’s  
22 global trading arm for crude and gas, among other energy commodities. Paul Reed is the CEO of  
23 IST. IST North America Gas and Power (“NAGP”) trades energy commodities in North  
24 America. Structured Products Americas (“Structured Products”) is a group within NAGP.  
25 Orlando Alvarez is the CEO of NAGP. SCHROEN was in the Structured Products group. Steve  
26 Provenzano is the COO of Structured Products and was SCHROEN’s boss. BP Energy Company  
27 (“BPEC”) was the BP contracting party for all physical (*i.e.*, deals entailing the physical deliver  
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1 or receipt of natural gas) such as the DGS Transaction. All of these BP entities and personnel had  
2 knowledge of BP's dealings with DGS, and each has responsibility for those dealings.

3 70. BP touted generally to the world and specifically to DGS that due to its massive  
4 size and its superior knowledge of the market, it has the ability to provide natural gas at very  
5 competitive prices. The original contract with DGS was obtained under the umbrella of  
6 government procurement, meaning the provider selected, here BP, would be the one that could  
7 provide the commodity at the most reasonable price. BP was trusted to provide gas, whether  
8 through index-based transactions or 'Special Purchases', at a near-market price to DGS, and each  
9 time it sent a monthly invoice, it falsely charged DGS – and in turn, DGS's customers – with  
10 charges considerably over what it explicitly or implicitly represented to be a near-market price.

11 71. DGS understandably believed that it was receiving gas from BP at prices that were  
12 near-market, and at-worst, within the caps set by its contract with BP. In fact, BP systematically  
13 inflated its prices when it sold to DGS, far above the caps. Moreover, BP often structured the  
14 deals to further conceal from DGS additional profit margin. For example, a deal could be  
15 proposed that had very low prices in the early months, but a great deal of margin in the later  
16 months, making the deal look much more attractive than in fact it really was. BP knew that it was  
17 dealing with governmental entities, whose budgetary concerns were largely in the near time  
18 frame, and thus focused on the short-term part of the deal. The actual amount of the overall profit  
19 on the deal was thereby easily concealed. Furthermore, the deals were often restructured as time  
20 passed. Each time a particular transaction was restructured, BP could and did add additional  
21 margin to the price.

22 72. The margins imposed at the origin, and at each restructuring, exceeded any  
23 reasonable profit or the contractual cap over the entire term of the transaction. When BP  
24 restructured existing deals, under the guise of saving its clients money, BP engaged in artifice and  
25 fraud by failing to save the client money, and instead merely lowering the near term payment  
26 schedule, while at the same time adding additional pricing on the back end. Using mark-to-  
27 market accounting, BP realized the full amount of the profit over the entire course of each  
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1 transaction, both at the outset and every time it the transaction was restructured, on the day it was  
2 consummated, and rewarded its employees handsomely in the form of lavish bonuses based on  
3 those realized profits. This was the true impetus behind the habitual restructurings. After having  
4 engaged in manipulation of the market and in the first instance, BP compounded its wrongdoing  
5 by adding in additional profit – over and above the already overcharged profit – on virtually every  
6 deal. In each and every case BP falsely claimed that the prices it was charging were in  
7 compliance with the DGS contracts and with applicable law.

8         73. BP is a massive international entity made up of a complicated enmeshment of  
9 corporate and division structures. Those responsible for the massive overcharging inflicted on the  
10 Plaintiffs include the following: Defendant BP, P.L.C., BP AMERICA PRODUCTION  
11 COMPANY, BP PRODUCTS NORTH AMERICA, BP ENERGY CO., BP CORP NORTH  
12 AMERICA, and IST NORTH AMERICA GAS & POWER. The approval of the practices  
13 engaged in by BP reaches the highest levels of corporate management. In addition, outside  
14 auditors were well aware of these practices and in large part approved of them, at least initially.  
15 Although the auditors questioned certain aspects of the accounting related to the DGS  
16 transactions, until recently they were overruled by internal BP senior management.

17         74. SCHROEN eventually became BP's primary point person for dealing with Nancy  
18 Moon, the DGS consultant responsible for procuring natural gas for the NGS program.  
19 SCHROEN's activities were overseen and approved by the local BP leadership and management  
20 structure and the actual corporate management of BP.

21         75. Other elements of BP were involved, since additional margin was made by various  
22 BP traders and marketers other than SCHROEN. SCHROEN worked in furtherance of several  
23 BP entities. He was technically employed by Defendant BPAPC, however, when he was fired his  
24 "non-Solicitation Acknowledgment" indicated that "IST North America Gas & Power operates  
25 through BP Products North America, BP Energy Co., BP Corp North America, and other legal  
26 entities (collectively, "BPPNA")." That document also refers to SCHROEN's "employment with  
27 BPPNA."  
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1           76.     The “BP plc Deferred Annual Bonus Plan for IST Traders,” which appears to  
2 cover SCHROEN’s stock options, refers to Integrated Supply and Trading (“IST”) traders,  
3 originators and managers. SCHROEN received a termination letter dated March 8, 2012 from  
4 Steve Provenzano, COO, Structured Products Americas at Defendant BPEC.

5           77.     In the context of the actions taken by BP in this matter, SCHROEN was an  
6 employee or agent or servant acting in furtherance of these several BP entities. SCHROEN  
7 merely implemented the BP structure that was in place upon his arrival in 2004 and acted under  
8 the guidance, supervision and instruction of BP, which was provided by BP managers, officers  
9 and senior management at the local level in Houston, Texas and, at times, the global level in  
10 London.

11           78.     Paul Reed, the London-based global head of IST, and other persons affiliated with  
12 BP plc, for example, became involved in attempting to “solve” the overcharging and fraud  
13 “problem,” and on information and belief, ultimately attempted to institute controls and  
14 procedures designed to require BP to adhere to the charging limitations in the contract it had with  
15 DGS and revamp the confirmation procedure – but only after overbilling Plaintiffs by hundreds of  
16 millions of dollars over the past decade. Legal responsibility for the conduct complained of  
17 herein reaches the highest levels of corporate management in the BP structure.

18           79.     BP has a history of illicit market manipulation and of overcharging for natural gas.  
19 By a Consent Order entered in the U.S. District Court for the Northern District of Illinois in late  
20 2007, BP was required to pay a civil penalty of \$125,000,000, for manipulating the natural gas  
21 liquids market through some of the same entities named herein. Paul Reed, an individual  
22 intimately involved in the evaluation of BP’s dealings with NGS, signed the Consent Order on  
23 behalf of BPPNA. In that Consent Order BP agreed to implement a compliance and ethics  
24 program to detect and prevent violations of the Commodity Exchange Act. BP also agreed to  
25 provisions related to “Manipulative Conduct,” which is defined in the Consent Order as any  
26 potential act of manipulation, attempted manipulation, cornering, or attempted cornering related  
27 to the price of a commodity; any false, misleading, or knowingly inaccurate information that  
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1 could tend to affect the price of a commodity in interstate commerce; and/or making any false or  
2 misleading statements to any registered entity as defined in Title 7 of the U.S. Code.

3       80.     Significantly, with respect to the pricing of commodities such as natural gas the  
4 Order provides: "BP and the BP Entities shall be deemed to "have any knowledge" of alleged  
5 Manipulative Conduct when information about such Manipulative Conduct is known to a  
6 representative from any BP legal division, a representative of an BP compliance group, or any  
7 individual responsible for the supervision of trading managers or his or her supervisor(s)." The  
8 BP Defendants knew they had managerial responsibility for supervising and managing lower  
9 level employees such as SCHROEN and ensuring that BP did not illegally and fraudulently  
10 overcharge the State of California.

11       81.     BP had actual knowledge of the terms of the contracts it entered into with DGS.

12       82.     BP had actual knowledge of the "profits" or "margin" made by BP as shown on the  
13 books of the BP trader who "sold" the gas for resale to the Plaintiffs.

14       83.     BP had actual knowledge of the "profits" or "margin" made by BP as shown on the  
15 books of the BP trader who sold the gas to DGS.

16       84.     BP had actual knowledge of the total amount of the profit made by BP on each and  
17 every gas deal involving overcharges to Plaintiffs.

18       85.     BP had actual knowledge of the manner and scope of BP's contractual restrictions  
19 and ethical obligations with respect to Plaintiffs.

20       86.     BP had actual knowledge that it was illegally and fraudulently overcharging the  
21 Plaintiffs and that it was concealing these overcharges.

22       87.     Thus at all times relevant hereto, each Defendant "knew" or acted "knowingly," as  
23 those terms are defined in California Government Code section 12650, subdivision (b)(2), in  
24 making, presenting, or submitting false claims. In that respect, each Defendant acted:

- 25           (a)     With actual knowledge of the information; or  
26           (b)     In deliberate ignorance of the truth or falsity of the information; or  
27           (c)     With reckless disregard of the truth or falsity of the information.



1           **D.    Examples of Specific Transactions on Which BP Overcharged Plaintiffs**

2           88.    Over the past decade, BP has overcharged DGS on thousands of transactions. The  
3 following paragraphs describe just a few examples.

4           89.    On February 7, 2006, for example, BP sold to DGS, through a Special Purchase  
5 transaction, 20,000 units of natural gas, at \$8.13 per unit. BP's internal trade identification  
6 number for the deal was 1177218. BP made far more than a \$0.15 margin on the transaction.  
7 Some or all of Plaintiffs were the ultimate purchasers of some or all of that gas.

8           90.    On February 9, 2006, BP sold to DGS, through a Special Purchase transaction,  
9 Trade Number 1182618, 30,000 units of natural gas, at \$8.00 per unit. BP made far more than a  
10 \$0.15 margin on the transaction. Some or all of Plaintiffs were the ultimate purchasers of some or  
11 all of that gas.

12          91.    On February 15, 2006, BP sold to DGS, through a Special Purchase transaction,  
13 Trade Number 1193167, 30,000 units of natural gas, at \$7.75 per unit. BP made far more than a  
14 \$0.15 margin on the transaction. Some or all of Plaintiffs were the ultimate purchasers of some or  
15 all of that gas.

16          92.    On April 1, 2006, BP sold to DGS, through a Special Purchase transaction, Trade  
17 Number 1217640, 20,000 units of natural gas, at \$6.99 per unit. BP made far more than a \$0.15  
18 margin on the transaction. Some or all of Plaintiffs were the ultimate purchasers of some or all of  
19 that gas.

20          93.    On October 4, 2006, BP sold to DGS, through a Special Purchase transaction,  
21 Trade Number 1674536, 2,000 units of natural gas, at \$7.85 per unit. BP made far more than a  
22 \$0.15 margin on the transaction. Some or all of Plaintiffs were the ultimate purchasers of some or  
23 all of that gas.

24          94.    On January 2, 2008, BP sold to DGS, through a Special Purchase transaction,  
25 Trade Number 2742393, 80,000 units of natural gas, at \$8.30 per unit. BP made far more than a  
26 \$0.15 margin on the transaction. The ultimate purchaser of some or all of that gas was the County  
27 of Los Angeles.  
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1           95.     On September 26, 2008, BP sold to DGS, through a Special Purchase transaction,  
2 Trade Number 3480484, 20,000 units of natural gas, at \$7.64 per unit. BP made far more than a  
3 \$0.15 margin on the transaction. The ultimate purchaser of some or all of that gas was the  
4 University of California, Irvine.

5           96.     On October 16, 2008, BP sold to DGS, through a Special Purchase transaction,  
6 Trade Number 3532354, 20,000 units of natural gas, at \$7.50 per unit. BP made far more than a  
7 \$0.15 margin on the transaction. The ultimate purchaser of some or all of that gas was the  
8 University of California, San Francisco.

9           97.     On April 16, 2009, BP sold to DGS, through a Special Purchase transaction, Trade  
10 Number 3981107, 26,495 units of natural gas, at \$7.06 per unit. BP made far more than a \$0.15  
11 margin on the transaction. The ultimate purchaser of some or all of that gas was the California  
12 Polytechnic State University, San Luis Obispo.

13           98.     On October 25, 2010, BP sold to DGS, through a Special Purchase transaction,  
14 Trade Number 5493296, 20,000 units of natural gas, at \$4.625 per unit. BP made far more than a  
15 \$0.15 margin on the transaction. Some or all of Plaintiffs were the ultimate purchasers of some or  
16 all of that gas.

17           99.     On June 17, 2011, BP sold to DGS, through a Special Purchase transaction, Trade  
18 Number 6051893, 20,000 units of natural gas, at \$7.64 per unit. BP made far more than a \$0.15  
19 margin on the transaction. The ultimate purchaser of some or all of that gas was the University of  
20 California (Irvine).

21           100.    BP invoiced DGS for these transactions – and the hundreds of others like them –  
22 on a monthly basis. Each of those invoices constituted constitute false claims in that they were  
23 (a) presented to DGS, which is an agent of California and its political subdivisions, and whose  
24 employees are employees of California; and/or (b) were made to DGS, and the money paid by  
25 DGS was for the interest of California state agencies and its political subdivisions, including  
26 Plaintiffs, and the state agencies and political subdivisions provided the funds to DGS for  
27 payment of the invoices.  
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1 **V. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **CALIFORNIA FALSE CLAIMS ACT, PRESENTING FALSE CLAIMS**

4 **California Government Code § 12651(a)(1)**

5 **(Against All Defendants)**

6 101. Plaintiffs incorporate herein by reference and reallege the allegations in Paragraphs  
7 1 through 100 inclusive, of this Complaint.

8 102. Defendants, and each of them, knowingly (as defined in California Government  
9 Code section 12650, subdivision (b)(2)) presented or caused to be presented false claims for  
10 payment or approval to an officer or employee of California or its political subdivisions.

11 103. Each Defendant knowingly made, used, and/or caused to be made and used false  
12 records and statements, including but not limited to claims, bills, invoices, requests for  
13 reimbursement, and records of services, in order to obtain payment or approval of charges to  
14 Plaintiffs that were based on fraudulently inflated natural gas prices, significantly above the  
15 contractual agreements Defendants were to abide by.

16 104. Each Defendant knowingly submitted false claims for products and services that  
17 were obtained by means of false representations regarding "market" prices and other deception.

18 105. The conduct of Defendants, and each of them, violated Government Code section  
19 12651, subdivision (a)(1) and caused Plaintiffs to sustain damages in an amount according to  
20 proof.

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**SECOND CAUSE OF ACTION**

**CALIFORNIA FALSE CLAIMS ACT,  
MAKING OR USING FALSE RECORDS OR STATEMENTS TO OBTAIN PAYMENT  
OR APPROVAL OF FALSE CLAIMS**

**California Government Code § 12651(a)(2)**

**(Against All Defendants)**

106. Plaintiffs incorporate herein by reference and reallege the allegations stated in Paragraphs 1 through 100, inclusive, of this Complaint.

107. Defendants, and each of them, knowingly (as defined in California Government Code section 12650, subdivision (b)(2)) made, used, or caused to be made or used false records or statements to get false claims paid or approved by Plaintiffs.

108. Each Defendant knowingly made, used, and/or caused to be made and used false records and statements, including but not limited to commercial sales practice reports, claims, bills, invoices, requests for reimbursement, and records of services, in order to obtain payment or approval of charges to Plaintiffs that were based on fraudulently inflated natural gas prices, significantly above the contractual agreements Defendants were to abide by.

109. Each Defendant knowingly submitted false claims for products and services that were obtained by means of false representations regarding "market" prices.

110. The conduct of Defendants, and each of them, violated Government Code section 12651, subdivision (a)(2) and caused Plaintiffs to sustain damages in an amount according to proof.

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**THIRD CAUSE OF ACTION**  
**CALIFORNIA FALSE CLAIMS ACT**  
**CONSPIRACY TO VIOLATE THE FALSE CLAIMS ACT**  
**California Government Code § 12651(a)(3)**  
**(Against All Defendants)**

111. Plaintiffs incorporate herein by reference and realleges the allegations in Paragraphs 1 through 100, inclusive, of this Complaint.

112. Defendants, and each of them, conspired to violate the False Claims Act, including by conspiring to present or cause to be presented false claims for payment or approval to an officer or employee of California or a political subdivision thereof; or by conspiring to make, use, or cause to be made or used false records or statements to get false claims paid or approved by Plaintiffs.

113. Each Defendant agreed to present or cause to be presented false claims for payment or approval to an officer or employee of Plaintiffs; or agreed to make, use, or cause to be made or used false records or statements to get false claims paid or approved by Plaintiffs.

114. One or more Defendants presented or caused to be presented false claims for payment or approval to an officer or employee of Plaintiffs; or made, used, or caused to be made or used false records or statements to get false claims paid or approved by Plaintiffs.

115. The conduct of Defendants, and each of them, violated Government Code section 12651, subdivision (a)(3) and caused Plaintiffs to sustain damages in an amount according to proof.

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1           121. Each Defendant was the beneficiary of false claims, bills and charges to Plaintiffs  
2 that were based on fraudulently inflated natural gas prices, significantly above the contractual  
3 agreements Defendants were to abide by.

4           122. Each Defendant knowingly submitted false claims for products and services that  
5 were obtained by means of false representations regarding "market" prices.

6           123. Each Defendant, on discovering that it was the beneficiary of the submission of  
7 false claims for payment, failed promptly to disclose the overcharge to Plaintiffs and failed to  
8 make restitution of payments to which it was not entitled.

9           124. The conduct of Defendants, and each of them, violated Government Code section  
10 12651, subdivision (a)(8) and caused Plaintiffs to sustain damages in an amount according to  
11 proof.

12 **VI. PRAYER FOR RELIEF**

13           WHEREFORE, Plaintiffs, by and through *Qui Tam* Plaintiff, pray for judgment in their  
14 favor and against Defendants as follows:

15           1. That judgment be entered in favor of Plaintiffs STATE OF CALIFORNIA,  
16 COUNTY OF SAN FRANCISCO, COUNTY OF LOS ANGELES, REGENTS OF THE  
17 UNIVERSITY OF CALIFORNIA, and BOARD OF TRUSTEES OF THE CALIFORNIA  
18 STATE UNIVERSITY, and ROES 1 through 200 (collectively, "Plaintiffs"), *ex rel.*  
19 CHRISOPHER SCHROEN, and against Defendants BP plc a UK corporation, Defendant BP  
20 America Production Company, a Delaware Corporation, Defendant BP Products North America,  
21 a Maryland corporation, Defendant BP Energy Company a Delaware corporation, and Defendant  
22 BP Corporation North America, Inc., an Indiana corporation; and each of them, jointly and  
23 severally, according to proof, as follows:

24           a. On the First Cause of Action (Against All Defendants, California False  
25 Claims Act; Presenting False Claims, California Government Code § 12651(a)(1)), damages as  
26 provided by California Government Code section 12651, subdivision (a), in the amount of:

27           i. Triple the amount of Plaintiffs' damages;

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- ii. Civil penalties of Ten Thousand Dollars (\$10,000.00) for each false claim;
- iii. Recovery of costs, attorneys' fees, and expenses;
- iv. Pre- and post-judgment interest;
- v. Such other and further relief as the Court deems just and proper;

b. On the Second Cause of Action (Against All Defendants, California False Claims Act; Making or Using, or Causing To Be Made or Used, False Records or Statements To Obtain Payment or Approval of False Claim, California Government Code § 12651(a)(2)) damages as provided by California Government Code section 12651, subdivision (a) in the amount of:

- i. Triple the amount of Plaintiffs' damages;
- ii. Civil penalties of Ten Thousand Dollars (\$10,000.00) for each false claim;
- iii. Recovery of costs, attorneys' fees, and expenses;
- iv. Pre- and post-judgment interest;
- v. Such other and further relief as the Court deems just and proper;

c. On the Third Cause of Action (All Defendants, California False Claims Act, Conspiracy to Violate the False Claims Act, California Government Code § 12651(a)(3)) damages as provided by California Government Code section 12651, subdivision (a) in the amount of:

- i. Triple the amount of Plaintiffs' damages;
- ii. Civil penalties of Ten Thousand Dollars (\$10,000.00) for each false claim;
- iii. Recovery of costs, attorneys' fees, and expenses;
- iv. Pre- and post-judgment interest;
- v. Such other and further relief as the Court deems just and proper;



1 d. On the Fourth Cause of Action (In the Alternative, Against All Defendants,  
2 California False Claims Act, Retention of Proceeds Of Inadvertently Submitted False Claims,  
3 California Government Code § 12651(a)(8)) damages as provided by California Government  
4 Code section 12651, subdivision (a) in the amount of:

- 5 i. Triple the amount of Plaintiffs' damages;  
6 ii. Civil penalties of Ten Thousand Dollars (\$10,000.00) for each false  
7 claim;  
8 iii. Recovery of costs, attorneys' fees, and expenses;  
9 iv. Pre- and post-judgment interest;  
10 v. Such other and further relief as the Court deems just and proper;

11 2. Further, the *Qui Tam* Plaintiff, on his behalf, requests that he receive such  
12 maximum amount as permitted by law, of the proceeds of this action or settlement of this action  
13 collected by Plaintiffs, plus an amount for his reasonable expenses incurred, plus reasonable  
14 attorneys' fees and costs of this action. The *Qui Tam* Plaintiff requests that his percentage be  
15 based upon the total value recovered, including any amounts received from individuals or entities  
16 not parties to this action.

17 Dated: July 3, 2012

**COTCHETT, PITRE & McCARTHY, LLP**

**STEIDLEY + ELSOM, LLC**

18  
19  
20  
21 By: 

NIALL P. McCARTHY  
NANCIE. NISHIMURA  
JUSTIN T. BERGER  
MATTHEW K. EDLING  
ERIC J. BUESCHER

*Attorneys for Qui Tam Plaintiff Christopher Schroen*

**JURY DEMAND**

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Dated: July 3, 2012

**COTCHETT, PITRE & McCARTHY, LLP**

**STEIDLEY + ELSOM, LLC**

By: 

NIALL P. McCARTHY  
NANCY E. NISHIMURA  
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