

CONFIDENTIAL

MC-060

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ENDORSED
 FILED
 Superior Court of California
 County of San Francisco

MAR 15 2013

CLERK OF THE COURT
 BY: CAROLYN BALISTRERI
 Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco

STREET ADDRESS: 400 McAllister Street
 MAILING ADDRESS: 400 McAllister Street
 CITY AND ZIP CODE: San Francisco, CA 94102
 BRANCH NAME: Civic Center Courthouse

PLAINTIFF: [UNDER SEAL]
 DEFENDANT: [UNDER SEAL]

CONFIDENTIAL COVER SHEET—FALSE CLAIMS ACTION

CASE NUMBER:
 CGC-12-522063

INSTRUCTIONS: This civil action is brought under the False Claims Act, Government Code section 12650 et seq. The documents filed in this case are under seal and are confidential pursuant to Government Code section 12652(c).

This Confidential Cover Sheet must be affixed to the caption page of the complaint and to any other paper filed in this case until the seal is lifted.

You should check with the court to determine whether papers filed in False Claims Act cases must be filed at a particular location.

Seal to expire on (date):
 September 4, 2013

UNLESS:
 (1) Motion to extend time is pending; or
 (2) Extended by court order

1. The document to which this cover sheet is affixed is:
- a. Complaint for damages for violation of the False Claims Act
 - b. Civil Case Cover Sheet (form 982.2(b)(1))
 - c. Motion for an extension of time to intervene
 - d. Affidavit or other document in support of the motion for an extension of time
 - e. Order extending time to intervene (specify date order expires):
 - f. Other order (describe): First Amended Complaint
 - g. Notice from the Attorney General of additional prosecuting authority that may have access to the file
 - h. Other (describe):

2. This Confidential Cover Sheet and the attached document must each be separately file-stamped by the clerk of the court.

Date: March 15, 2013

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

26 Defendants.

Case No. CGC-12-522063

**FIRST AMENDED 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

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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,¹ 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 ¹ 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**.² 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 from internal BP counterparts and could not obtain natural gas at competitive market prices.

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

1 Those internal BP counterparts – knowing that the ultimate purchaser of the natural gas was
2 DGS–provided BP traders with gas at prices that were inflated far above commercial market
3 prices. Once the traders received the inflated “market” price from the concealed BP monopoly,
4 the traders then added a margin on top of the existing markup. This practice was known within
5 BP as “margin pancaking” or “margin stacking.”

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

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

19 **II. PARTIES**

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

25 14. THE UNIVERSITY OF CALIFORNIA is governed by THE REGENTS, which
26 under Article IX, Section 9 of the California Constitution has “full powers of organization and
27 governance” subject only to very specific areas of legislative control. Established in 1868, the
28 UNIVERSITY OF CALIFORNIA is one of the premier universities in the world. Pursuant to

1 California Government Code section 12652.5, the University of California is considered a
2 political subdivision for purposes of the California False Claims Act.

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

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

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

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

25 19. Defendant BP AMERICAN PRODUCTION COMPANY ("BPAPC") is a
26 Delaware corporation with its principal place of business in Houston, Texas. BPAPC is licensed
27 to do business in the state of California (Entity Number C0738422) and does business in the
28 County of San Francisco.

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

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

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

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

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

22 25. At all times relevant to this Complaint, Defendants, and each of them, were acting
23 as the agents, servants, employees, joint venturers, and/or representatives of each other, and were
24 acting within the course and scope of their agency, employment and/or joint venture, with the full
25 knowledge, consent, permission, authorization and ratification, either express or implied, of each
26 of the other Defendants in performing the acts alleged in this Complaint.

27 26. Defendants, and each of them, participated as members of a conspiracy and/or
28 aided and abetted one another in furtherance of the schemes herein alleged, or assisted one

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

9 **III. JURISDICTION AND VENUE**

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

17 28. This Court has jurisdiction under the California False Claims Act, Cal. Gov. Code
18 § 12652(c)(2).

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

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

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

27 30. DGS's NGS program is comprised of four staff members: a program manager,
28 Marshall Clark, who has the responsibility for overseeing program operations, and three

1 employees that focus on office administrative functions, such as processing gas supplier and
2 utility payments and recovering program costs from customers. The program is assisted by two
3 contracted consultants: one for legal services and one for natural gas advisory services, Nancy
4 Moon.

5 31. NGS also receives legal assistance from an assigned attorney with the DGS Office
6 of Legal Services. The contracted legal consultant provides numerous advisory services including
7 those involving the regulatory aspects of the program. Ms. Moon has been with the program over
8 15 years and is of primary importance to the success of the program. Ms. Moon works with NGS
9 program staff on almost a daily basis and provides a wide range of program support services
10 required in the overall natural gas supply process as well as direction and guidance in commodity
11 purchases and program design and implementation.

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

18 33. DGS purchased natural gas exclusively from BP, and BP was obligated to sell
19 DGS its full requirements of natural gas. Accordingly, BP had a virtual monopoly on gas sold to
20 DGS. The BP marketers who arranged for the sales of natural gas to DGS were required by BP to
21 “purchase” that gas from internal BP traders, as opposed to in the open market. Those internal BP
22 traders supplying natural gas to the BP marketers, recognizing the virtual monopoly BP had on
23 DGS, artificially inflated the price at which they sold natural gas to the BP marketers. The BP
24 marketers, in turn, compounded the overcharging by also overcharging on the “retail” side when
25 they sold the gas to California at a price that was much higher than the price at which they
26 “bought” the gas from their internal BP traders. The fact that BP was making an exorbitant profit
27 on both sides of all DGS deals was never disclosed to California. The overcharging and the
28 amount and extent of overcharging is reflected in the “books” of the internal BP traders. These

1 books and the margin of profit realized by the internal BP traders were reviewed by senior BP
2 management on a daily basis. At the same time that California was being overcharged in this
3 fashion by BP, the same books will show other internal “sales” of gas that would be ultimately
4 sold to parties other than DGS for much lower prices in which the trader earned a fraction of the
5 profit per MMBtu as compared to that gas attributed to deals involving DGS.

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

14 35. SCHROEN dealt with the DGS/NGS account, as the lowest man on the BP totem
15 pole. The DGS/NGS account was managed by Scott Bond of BP when SCHROEN arrived, and
16 Bond continued to manage the account until Bond left BP in 2010. SCHROEN came on board in
17 2004, and was indoctrinated into the manner in which BP was doing business with DGS. The
18 scam described herein existed before Schroen arrived at BP and continued after he left
19 BP. Schroen was supervised by Provenzano, and his trading activity with DGS was monitored on
20 a daily basis, deal by deal. SCHROEN was instructed with respect the general manner in which
21 BP transacted business with DGS and with respect to the base line profit margin he was to
22 achieve, and until the end of his tenure he was highly praised for the effective job that he did on
23 behalf of BP.

24 36. SCHROEN worked on the DGS/NGS account from 2004 until he was fired in
25 2012. He has first-hand knowledge of the manner in which BP did business with DGS, and how
26 BP maximized its profits at the expense of Plaintiffs.

27 37. For most of his tenure, SCHROEN worked under the principal on the DGS
28 account, Scott Bond, who worked out of Irvine, California. SCHROEN only had the authority to

1 structure deals with California consistent with the wishes of his supervisors and the management
2 of BP. At all times SCHROEN's trading activities were monitored on a daily basis and on a deal-
3 by-deal basis. Until the end of his employment, he was urged and incentivized to maximize BP's
4 profits.

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

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

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

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

21 **B. The California DGS Transactions**

22 **1. DGS and NGS**

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

27 43. DGS's NGS program is the primary supplier of natural gas in California to large
28 facilities of state and local governments. NGS can arrange for gas delivery and price risk

1 management services. Participation in the NGS program is voluntary. NGS has the ability to
2 take a relatively small volume of gas that would be considered “retail” and aggregate that volume
3 with similar volumes from numerous state customers in order to bring to the negotiating table a
4 much larger volume, which would theoretically allow NGS to buy natural gas at a lower
5 “wholesale” rate.

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

11 45. NGS customers can participate in one or five year contracts with DGS through the
12 NGS program. NGS program customers include the University of California system, the
13 California State University system, the California prison system, the County of Los Angeles, and
14 the “pool,” which aggregates numerous smaller governmental subdivisions. SCHROEN estimates
15 that in the last decade the total amount of purchases made by DGS through BP range from
16 \$150,000,000 to \$250,000,000 annually for an approximate total of \$2,000,000,000. At all
17 pertinent times, Defendants knew that the fraudulently inflated prices for gas they sold to NGS
18 would be passed along to NGS’s governmental customers.

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

20 46. After engaging in the required preliminaries, including a response to a Request for
21 Proposal (“RFP”), BPEC and DGS entered into a Base Contract for Sale and Purchase of Natural
22 Gas pursuant to which BPEC agreed to sell DGS the full requirements of DGS’s 150-175
23 program customers of natural gas (“DGS Contract”). BPEC has successfully won the RFP for the
24 last several years, and the most recent contract provided for a relationship initially through 2014
25 and then through 2017. The DGS Contract is comprised of the terms and conditions of the DGS
26 RFP and a NAESB Agreement, which is an industry-standard form gas purchase and sales
27 agreement. Orlando Alvarez signed the DGS Contract for BP.

1 47. BP’s primary contact for DGS was an outside consultant based in Michigan named
2 Nancy Moon at Moonlighting Consulting (“Moon”), and the internal DGS contact was Marshall
3 D. Clark, whose title is Manager, Natural Gas Services (“Clark”). Moon and Clark did an
4 outstanding job of providing the State of California with sufficient quantities of natural gas during
5 a period when California was suffering severe financial hardship.

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

9 49. Generally speaking, the DGS Contract allowed the DGS program customers to
10 choose between two pricing mechanisms. DGS customers could choose ‘Index Pricing,’ which
11 was based on a specified, published monthly index price indicating gas prices at two locations in
12 California – Malin and the SoCal Border – plus \$.002/MMBtu. The price for gas purchased
13 under Index Pricing would fluctuate with the market. In a steady or falling market, Index Pricing
14 would often be preferred, but in a market that is rising or expected to rise, or in a market with
15 ongoing fluctuations, the customer could also choose ‘Special Purchases,’ which would allow the
16 DGS customers to fix their natural gas prices for periods lasting from several months to several
17 years.

18 50. The DGS Contract restricted BPEC’s margin on such Special Purchases to
19 \$.15/MMBtu. This provision is particularly important, given the full requirements nature of the
20 contract, and the internal limitations established by BP regarding BP’s sourcing of natural gas to
21 be sold to California. DGS was obligated to purchase from BP, and without an internal limitation
22 on profit, DGS was at the mercy of whatever BP wished to charge. With respect to the conduct at
23 issue here, BP abused that position of trust and confidence, manipulating both what the “market”
24 was, and obscuring the true “margins” or profits that it made off of the State of California.

25 51. The price for each month of a Special Purchase could vary, but would be
26 established at the outset, irrespective of market movements. The strategy employed would be to
27 lock in certain rates at certain times, and reduce the effect of market movement. During the
28 applicable time frame natural gas prices hit record highs, but then fell precipitously. Accordingly,

1 many DGS customers chose Special Purchases in order to have a known price for their natural
2 gas, and to not be subject to the volatility of the market. The DGS customers were attempting to
3 lock in lower prices and avoid potential market upswings, which also allowed them to set budgets.
4 SCHROEN estimates that at their peak, **Special Purchases comprised approximately 70% of**
5 **the DGS program.** There were several pools of transactions within the Special Purchase
6 category. Each transaction could be and often was restructured as the market moved. As
7 originally constituted, the transactions exceeded the maximum allowable margins, and in almost
8 every case an overcharging occurred. In addition, these transactions were habitually
9 ‘restructured’, maintaining the original overcharge, with additional overcharging built in to the
10 “new” deal. The margin stacking was thus compounded over and over again.

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

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

20 53. SCHROEN was required by BP to go exclusively to internal BP personnel for such
21 arrangements. Each of the BP traders had a “book,” which was a record of that trader’s trades, so
22 that BP could keep track of the profitability of a particular trader’s actions. The traders’ deals in
23 which DGS natural gas sales were involved appear explicitly in the BP NYMEX Trading Book
24 for that book of business, in the NoCal Book for that book of business, in the Gas Daily Options
25 Book, for that type of business, and so on. **Even a cursory examination of those books will**
26 **reveal that natural gas, simultaneously sold to non-DGS customers was much, much**
27 **cheaper than natural gas BP sold to DGS.** The internal BP traders knew when SCHROEN was
28

1 coming to them for gas to be sold to DGS, and systematically and dramatically inflated their
2 prices when he did so.

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

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

16 56. In fact, prior to December of 2011, no one at BP acted in compliance with the
17 \$.15/MMBtu restriction on BP's margin. When SCHROEN made purchases for ultimate sale to
18 DGS, his internal BP counterparts routinely built in more margin, because the DGS Contract was
19 a full-requirements contract. Accordingly, the sources that SCHROEN was required by BP to use
20 provided him prices well above market.

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

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

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

4 59. After this initial stacking, the process was repeated, sometimes two or three times,
5 by “restructuring” deals. When a deal was restructured by BP it “stacked” additional margins or
6 profit each time, and that new “stacking” – by itself – typically exceeded the amounts that BP
7 could lawfully charge.

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

10 60. While the astronomical margins the BP traders were achieving were concealed
11 from DGS, they were not concealed from BP management. To the contrary, BP management had
12 complete knowledge of those margins, on a daily basis. When a BP trader makes a trade within
13 BP, that trader enters into the BP system the cost of the natural gas to the trader, and the sales
14 price of the gas to SCHROEN. The difference between those two numbers would be the margin,
15 or the profit, on that trader’s book of business. That would also be the profit to BP, and the book
16 of profits of the trader was therefore a significant factor for continued employment, as well as the
17 basis for raises or bonuses. Significantly, a BP risk manager would, each day, confirm the volume
18 of the traders’ books, and BP would track the profit or loss of its traders in that fashion. Thus, for
19 each trade to SCHROEN for a DGS deal, BP knew, on a daily basis, the exact amount of margin,
20 or profit, that BP made on this first piece of a DGS deal. In almost all cases, this first piece of the
21 margin exceeded any reasonable range, and what is believed to be the maximum margin allowed
22 under the DGS contracts.

23 61. On the other side – or second piece – of the BP deal with DGS, SCHROEN would
24 also have a book of business, and for each sale or deal done with DGS, he would enter into the
25 system the price at which he acquired the gas from BP internal sources (by identifying his trading
26 partner), the sales price to DGS, and the difference, which constitutes SCHROEN’s margin.
27 Once again that margin was incremental profit realized by BP on SCHROEN’s part of the deal.
28 This number was also used for providing bonuses to BP personnel involved. SCHROEN’s book

1 was reviewed and reconciled by a risk manager every day. The day after SCHROEN entered the
2 margin or profit on his books, the information would be confirmed and “hard dollars” would
3 appear in his book. The risk manager would calculate the total margin, and ask SCHROEN if he
4 was expecting that amount to show up as “hard” dollars based on the computer entries. If
5 SCHROEN agreed, it would be assumed that the computer entries were correct. If he did not
6 agree, the parties would reconcile to determine whose expectation was correct.

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

15 63. These transactions were also accounted for by BP’s CACTIS system. Analysts
16 tied out the prices and volumes each day, and another BP risk control person double-checked that
17 tie out the following day after ‘hard dollars’ were posted in the CACTIS system. The term “tie
18 out” refers to the reconciliation of the various entries in a cross-checking system, and the term
19 “hard dollars” refers to a trade that appeared in the BP system that had been verified by someone
20 other than the trader or originator of the trade or deal. Every transaction was thus relayed to and
21 approved by BP personnel other than SCHROEN.

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

27 65. The DGS transactions were also unusual because, as per the DGS Contract, DGS
28 was the party responsible for generating the trade confirmations. In almost all other trading

1 contracts, BP was the confirming party, meaning BP would prepare a confirmation of the terms of
2 the trade, and send it to the customer for acceptance. With DGS transactions, in contrast, the
3 DGS Contract required DGS to send BP a confirmation sheet, which became effective upon BP's
4 approval (or the expiration of time within which to reject the deal). In practice, of course, BP
5 originated the confirmation sheet, and fully controlled the terms of the transaction – DGS
6 rightfully trusted BP, the purported experts, to structure deals that were competitive and
7 compliant with the DGS contract.

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

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

24 **C. BP's Knowledge of and Role in the Scheme**

25 68. As described above, BP had actual knowledge, on a daily basis, of the fact of
26 overcharging, and of the overall amounts that were involved, as well as the stark difference
27 between the price at which BP sold natural gas to its captive customer DGS and the price at which
28 BP sold natural gas to other parties in and outside the State of California on that same day.

1 Management at BP had actual knowledge, day by day, week by week, month by month, and year
2 by year, of the fact that the profit extracted from California was, by several orders of magnitude,
3 the largest margin account in the company.

4 69. BP plc is the ultimate BP parent company. IST is a group within BP that is BP's
5 global trading arm for crude and gas, among other energy commodities. Paul Reed is the CEO of
6 IST. IST North America Gas and Power ("NAGP") trades energy commodities in North
7 America. Structured Products Americas ("Structured Products") is a group within NAGP.
8 Orlando Alvarez is the CEO of NAGP. SCHROEN was in the Structured Products group. Steve
9 Provenzano is the COO of Structured Products and was SCHROEN's boss. BP Energy Company
10 ("BPEC") was the BP contracting party for all physical (*i.e.*, deals entailing the physical deliver
11 or receipt of natural gas) such as the DGS Transaction. All of these BP entities and personnel had
12 knowledge of BP's dealings with DGS, and each has responsibility for those dealings.

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

21 71. DGS understandably believed that it was receiving gas from BP at prices that were
22 near-market, and at-worst, within the caps set by its contract with BP. In fact, BP systematically
23 inflated its prices when it sold to DGS, far above the caps. Moreover, BP often structured the
24 deals to further conceal from DGS additional profit margin. For example, a deal could be
25 proposed that had very low prices in the early months, but a great deal of margin in the later
26 months, making the deal look much more attractive than in fact it really was. BP knew that it was
27 dealing with governmental entities, whose budgetary concerns were largely in the near time
28 frame, and thus focused on the short-term part of the deal. The actual amount of the overall profit

1 on the deal was thereby easily concealed. Furthermore, the deals were often restructured as time
2 passed. Each time a particular transaction was restructured, BP could and did add additional
3 margin to the price.

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

17 73. BP is a massive international entity made up of a complicated enmeshment of
18 corporate and division structures. Those responsible for the massive overcharging inflicted on the
19 Plaintiffs include the following: Defendant BP, P.LC., BP AMERICA PRODUCTION
20 COMPANY, BP PRODUCTS NORTH AMERICA, BP ENERGY CO., BP CORP NORTH
21 AMERICA, and IST NORTH AMERICA GAS & POWER. The approval of the practices
22 engaged in by BP reaches the highest levels of corporate management. In addition, outside
23 auditors were well aware of these practices and in large part approved of them, at least initially.
24 Although the auditors questioned certain aspects of the accounting related to the DGS
25 transactions, until recently they were overruled by internal BP senior management.

26 74. SCHROEN eventually became BP's primary point person for dealing with Nancy
27 Moon, the DGS consultant responsible for procuring natural gas for the NGS program.

28

1 SCHROEN's activities were overseen and approved by the local BP leadership and management
2 structure and the actual corporate management of BP.

3 75. Other elements of BP were involved, since additional margin was made by various
4 BP traders and marketers other than SCHROEN. SCHROEN worked in furtherance of several
5 BP entities. He was technically employed by Defendant BPAPC, however, when he was fired his
6 "non-Solicitation Acknowledgment" indicated that "IST North America Gas & Power operates
7 through BP Products North America, BP Energy Co., BP Corp North America, and other legal
8 entities (collectively, "BPPNA")." That document also refers to SCHROEN's "employment with
9 BPPNA."

10 76. The "BP plc Deferred Annual Bonus Plan for IST Traders," which appears to
11 cover SCHROEN's stock options, refers to Integrated Supply and Trading ("IST") traders,
12 originators and managers. SCHROEN received a termination letter dated March 8, 2012 from
13 Steve Provenzano, COO, Structured Products Americas at Defendant BPEC.

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

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

27 79. BP has a history of illicit market manipulation and of overcharging for natural gas.
28 By a Consent Order entered in the U.S. District Court for the Northern District of Illinois in late

1 2007, BP was required to pay a civil penalty of \$125,000,000, for manipulating the natural gas
2 liquids market through some of the same entities named herein. Paul Reed, an individual
3 intimately involved in the evaluation of BP's dealings with NGS, signed the Consent Order on
4 behalf of BPPNA. In that Consent Order BP agreed to implement a compliance and ethics
5 program to detect and prevent violations of the Commodity Exchange Act. BP also agreed to
6 provisions related to "Manipulative Conduct," which is defined in the Consent Order as any
7 potential act of manipulation, attempted manipulation, cornering, or attempted cornering related
8 to the price of a commodity; any false, misleading, or knowingly inaccurate information that
9 could tend to affect the price of a commodity in interstate commerce; and/or making any false or
10 misleading statements to any registered entity as defined in Title 7 of the U.S. Code.

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

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

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

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

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

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

28

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

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

6 (a) With actual knowledge of the information; or

7 (b) In deliberate ignorance of the truth or falsity of the information; or

8 (c) With reckless disregard of the truth or falsity of the information.

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

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

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

16 90. On February 9, 2006, BP sold to DGS, through a Special Purchase transaction,
17 Trade Number 1182618, 30,000 units of natural gas, at \$8.00 per unit. BP made far more than a
18 \$0.15 margin on the transaction. Some or all of Plaintiffs were the ultimate purchasers of some or
19 all of that gas.

20 91. On February 15, 2006, BP sold to DGS, through a Special Purchase transaction,
21 Trade Number 1193167, 30,000 units of natural gas, at \$7.75 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 92. On April 1, 2006, BP sold to DGS, through a Special Purchase transaction, Trade
25 Number 1217640, 20,000 units of natural gas, at \$6.99 per unit. BP made far more than a \$0.15
26 margin on the transaction. Some or all of Plaintiffs were the ultimate purchasers of some or all of
27 that gas.

1 93. On October 4, 2006, BP sold to DGS, through a Special Purchase transaction,
2 Trade Number 1674536, 2,000 units of natural gas, at \$7.85 per unit. BP made far more than a
3 \$0.15 margin on the transaction. Some or all of Plaintiffs were the ultimate purchasers of some or
4 all of that gas.

5 94. On January 2, 2008, BP sold to DGS, through a Special Purchase transaction,
6 Trade Number 2742393, 80,000 units of natural gas, at \$8.30 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 County
8 of Los Angeles.

9 95. On September 26, 2008, BP sold to DGS, through a Special Purchase transaction,
10 Trade Number 3480484, 20,000 units of natural gas, at \$7.64 per unit. BP made far more than a
11 \$0.15 margin on the transaction. The ultimate purchaser of some or all of that gas was the
12 University of California, Irvine.

13 96. On October 16, 2008, BP sold to DGS, through a Special Purchase transaction,
14 Trade Number 3532354, 20,000 units of natural gas, at \$7.50 per unit. BP made far more than a
15 \$0.15 margin on the transaction. The ultimate purchaser of some or all of that gas was the
16 University of California, San Francisco.

17 97. On April 16, 2009, BP sold to DGS, through a Special Purchase transaction, Trade
18 Number 3981107, 26,495 units of natural gas, at \$7.06 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 California
20 Polytechnic State University, San Luis Obispo.

21 98. On October 25, 2010, BP sold to DGS, through a Special Purchase transaction,
22 Trade Number 5493296, 20,000 units of natural gas, at \$4.625 per unit. BP made far more than a
23 \$0.15 margin on the transaction. Some or all of Plaintiffs were the ultimate purchasers of some or
24 all of that gas.

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

1 100. BP invoiced DGS for these transactions – and the hundreds of others like them –
2 on a monthly basis. Each of those invoices constituted constitute false claims in that they were
3 (a) presented to DGS, which is an agent of California and its political subdivisions, and whose
4 employees are employees of California; and/or(b) were made to DGS, and the money paid by
5 DGS was for the interest of California state agencies and its political subdivisions, including
6 Plaintiffs, and the state agencies and political subdivisions provided the funds to DGS for
7 payment of the invoices.

8 **V. BP ILLEGALLY RETALIATED AGAINST QUI TAM PLAINTIFF**

9 101. Under the California False Claims Act, a whistleblower is protected from
10 retaliation by his employer. The protections of the False Claims Act prevent employers both from
11 discriminating against a *Qui Tam* Plaintiff who has disclosed his employer’s illegal conduct to the
12 state, and from threatening an employee who was forced to be involved in a scheme to submit
13 false claims, if that employer discloses the scheme to the state. BP engaged in both of these
14 prohibited activities.

15 102. As alleged herein, BP required SCHROEN to engage in conduct that resulted in
16 the submission of false claims. First, SCHROEN was given internal instructions by BP account
17 managers to achieve profit margins in the origination of DGS transactions of at least \$0.40 per
18 MMBtu over market indices. SCHROEN was not informed and did not learn until late 2011 that
19 BP’s margins were subject to contractual limits of \$0.15 per MMBtu over market indices.
20 Essentially every structured finance transaction that SCHROEN negotiated exceeded the \$0.15
21 per MMBtu limit, and thus included substantial overcharges. Second, BP did not allow
22 SCHROEN to go outside of BP to the open market to obtain competitive price quotations, but
23 rather required SCHROEN to purchase natural gas to be sold to DGS from BP energy traders at
24 whatever price those traders dictated. The BP energy traders knew that DGS was a captive
25 customer and systematically inflated their price quotations to SCHROEN to embed substantial
26 margins in the internal BP transactions with SCHROEN’S origination group. Essentially all
27 structured finance transactions between DGS and BP included multiple “stacked” or “pancaked”
28 internal transaction margins of this type, and all constitute overcharges to DGS and California.

1 103. As BP's profits from its scheme increased, DGS sought price relief for many of its
2 accounts. SCHROEN cooperated with these requests and sought to restructure individual deals to
3 reduce the immediate expense to DGS and its state agency clients, but in accordance with BP's
4 procedures, increased and locked in high incremental margins that exceeded the contractual
5 limitation on margins BP was allowed to earn in the new restructured transactions. The
6 incremental margins limited the effectiveness of these restructuring efforts. The incremental
7 excessive margins were a key feature of the new, restructured transactions and were reviewed and
8 approved by BP management in every case, despite the contractual limitations on margin in the
9 DGS contract. SCHROEN was unaware of the full extent of BP's profit margins.

10 104. In approximately 2009, SCHROEN's ability to restructure deals at the request of
11 DGS became constrained by the fact that individual deals could only meet the needs of the DGS
12 clients and also BP's profit requirements if the term of such deals were extended beyond the term
13 of the DGS contract. BP account managers and SCHROEN worked with DGS account
14 representatives to establish an agreement to extend the end of the term of the DGS contract to
15 approximately 2020. This type of extension was essential to SCHROEN's efforts on behalf of
16 DGS to defer portions of the payment on a particular deal into the future to allow for a reduction
17 of the current payment schedule.

18 105. In the interim, however, BP and DGS agreed in principle to a series of deals, both
19 new and restructured, that contemplated a payment schedule beyond the term of the DGS
20 agreement. In every instance DGS agreed in writing on the new prices it would be paying for
21 natural gas going forward and it was understood that such deals would be incorporated in a new
22 contract between BP and DGS with a term sufficient to cover those extended deals. BP
23 accountants placed those deals in an internal BP account referred to as the "bucket." From 2009
24 to 2011 the "bucket" profits rose to approximately \$100,000,000.

25 106. The deals between BP and DGS in the "bucket" were thoroughly vetted and
26 approved by BP accounting personnel and senior management of both BP's origination group and
27 energy trading group. Specifically, SCHROEN'S department head, Steve Provenzano,
28 maintained a daily book in which all such transactions and the relevant profits of the origination

1 department were recorded. Upon information and belief, the department head over BP's energy
2 trading desks and personnel, Orlando Alvarez, maintained similarly close review over the
3 structures, pricing and profit margins of BP's energy trading personnel. All such transactions
4 were also recorded and reviewed by BP's contract administration and accounting personnel. This
5 multi-layered review took place on a daily and weekly basis, was reported up the management
6 chain to senior accounting and management personnel, and was incorporated in monthly,
7 quarterly and annual accounting and earning reports. These personnel included the CFO of BP
8 North America. Despite the fact that these funds were not tied to a current contract, BP senior
9 management booked such profits for 2009 and 2010, with the blessing of its external auditors.

10 107. In late 2011 BP's auditors refused to approve the booking of the "bucket" profits
11 for 2011 on BP's books. On information and belief, all levels of BP management were aware of
12 the "creative" accounting that was in play to account for nearly \$100,000,000 of ill-gotten profits.
13 When the auditors refused to go along with this aspect of BP's scheme, BP management began
14 acting in an erratic and bizarre fashion. Although the precise nature of BP's accounting problem
15 was known only to BP management (because SCHROEN was not aware of the limitations on
16 margin in the DGS contract or the precise amount of BP's overall profit), BP senior management
17 nevertheless instructed SCHROEN, over his objection, to restructure to "bucket" profits on BP's
18 books to tie those profits to the current DGS contract.

19 108. At this point, SCHROEN was taken off the trading floor and told to restructure the
20 DGS deals in order to capture the "bucket" profits within the time period of the existing DGS
21 agreement. It was at this time, several years into SCHROEN'S participation in the management
22 of the DGS account that SCHROEN first heard and came to believe that the DGS contract limited
23 BP's margins to \$0.15 per MMBtu above market indices. In reality, SCHROEN had been
24 required by his superiors to book profit margins of \$0.40 per MMBtu or more since 2004.

25 109. The corporate level scrutiny over the "bucket" deals and profits combined with
26 their desire to preserve their personal bonuses led Provenzano and Alvarez to initiate a fraudulent
27 scheme to accelerate the collection of the "bucket" profits while assigning blame to SCHROEN
28 for the transactions underlying the "bucket" profits. Provenzano informed SCHROEN in

1 December 2011 that he was on “probation” and removed SCHROEN from the trading floor.
2 These actions made SCHROEN the visible scapegoat for BP’s corporate policy of overcharging
3 California. These overcharges were orchestrated by Provenzano and Alvarez, and were done in
4 blatant disregard of the contractual limitations designed to protect California. In furtherance of
5 this strategy of scapegoating SCHROEN, Provenzano and Alvarez represented to multiple
6 persons inside and outside BP that BP’s overcharges of the DGS account were the product of
7 unauthorized transactions by SCHROEN. Moreover, upon information and belief, BP
8 management personnel spread rumors within BP and the energy trading community that
9 SCHROEN had committed criminal acts and/or had managed his accounts in a dishonest manner.

10 110. Even as Provenzano and Alvarez were spreading false stories and rumors about
11 SCHROEN, Provenzano privately pressured SCHROEN to assist Provenzano in obtaining the
12 consent of DGS to the restructuring of the DGS transactions under the agreement to incorporate
13 the “bucket” profits. Provenzano suggested to SCHROEN that if SCHROEN could collect these
14 sums, SCHROEN would be reinstated to his position.

15 111. SCHROEN took action to stop BP’s fraudulent scheme. SCHROEN also sought to
16 prevent this acceleration of payment by advising Nancy Moon not to make any new restructuring
17 agreements with BP that SCHROEN did not participate in. As a result of SCHROEN’S warning,
18 DGS refused to cooperate with BP’s attempt to “crystallize” and conceal its overcharge profits,
19 thus saving California approximately \$100,000,000 (of course the total overcharges to DGS over
20 the relevant period far exceeded this amount).

21 112. After SCHROEN refused to cooperate with Provenzano’s collection efforts and the
22 deadline for inclusion of the accelerated DGS balances in BP’s earnings and bonus pool had
23 passed, BP fired SCHROEN. BP fired SCHROEN in retaliation for his efforts to expose and
24 stop BP’s scheme, and his refusal to cooperate with BP’s improper efforts to further gouge DGS.
25 Further, BP took the follow retaliatory and defamatory actions:

- 26 a. BP singled SCHROEN out as a scapegoat to receive all blame and
27 responsibility for BP’s systematic, company-wide policy of overcharging
28 DGS;

- 1 b. BP put SCHROEN on probation for purported unauthorized trades while
2 simultaneously seeking SCHROEN’S assistance in obtaining improperly
3 accelerated payment of the very same “unauthorized” trades.
- 4 c. BP fired SCHROEN after SCHROEN declined to participate in, and
5 informed DGS of, the scheme to increase the overcharges by collecting the
6 “bucket” moneys immediately rather than over the term of the applicable
7 transactions.
- 8 d. BP defamed SCHROEN to market participants outside BP and prevented
9 SCHROEN from obtaining comparable employment outside of BP;
- 10 e. BP also defamed SCHROEN’S reputation with DGS and other customers
11 through allegations and rumors that SCHROEN engaged in unauthorized
12 transactions or was dishonest or criminal in the conduct of his business.

13 113. BP’s allegations and rumors that SCHROEN engaged in unauthorized transactions
14 or was dishonest or criminal in the conduct of his business are false. To the contrary, when
15 SCHROEN was hired he was instructed specifically about the type and kind of margin BP
16 expected to be included in DGS deals, and every transaction that SCHROEN booked with DGS
17 was reviewed, scrutinized and approved by multiple layers of BP management on a daily, weekly,
18 monthly, quarterly and annual basis. BP management was aware of the contractual limitations on
19 margin. SCHROEN was not. Accusations by Provenzano, Alvarez and other BP personnel of
20 unauthorized or unlawful conduct by SCHROEN are false and are properly characterized as a
21 cover-up by BP management of its own culpability in causing DGS to pay hundreds of millions of
22 dollars in overcharges for natural gas.

23 114. In addition to firing SCHROEN in an attempt to blame him for BP’s fraud, BP also
24 defamed SCHROEN within the industry in an effort to prevent him from obtaining work. After
25 SCHROEN was fired, BP management personnel have continued to make false and defamatory
26 misrepresentations and rumors about SCHROEN that have damaged SCHROEN’s ability to
27 obtain employment at compensation levels commensurate with his skills and experience, and also
28

1 caused general reputational injury to SCHROEN in his business because the allegations and
2 rumors falsely accuse SCHROEN of dishonesty in the conduct of his business.

3 115. On information and belief, the defamatory statements and publications by BP
4 against SCHROEN include the following:

- 5 a. BP corporate management stated that SCHROEN's transactions with DGS
6 were unauthorized and constituted unauthorized extensions of credit to
7 DGS and California. This statement was made to an internal BP "Town
8 Hall" or "Learning," consisting of hundreds of BP energy trading
9 personnel.
- 10 b. BP department head Steve Provenzano represented to Kurt Batenhorst, who
11 was employed by BP at the time, but is no longer employed by BP that
12 "Schroen should be prosecuted," implying that SCHROEN committed a
13 crime.
- 14 c. BP department head Steve Provenzano made the same or substantially
15 similar representation at a "Town Hall" or "Learning" of hundreds of BP
16 energy trading personnel. Upon information and belief this publication to a
17 large audience has been repeated outside BP to industry participants and
18 damaged SCHROEN'S reputation in the industry.
- 19 d. BP department head Orlando Alvarez represented to a "Town Hall" or
20 "Learning" of hundreds of BP energy trading personnel that "Chris was
21 fired for unauthorized deals" and that the write-down of those deals was the
22 cause of the "whole floor's" (*i.e.* all of the energy traders) bonuses to be
23 cut. Upon information and belief this publication to a large audience has
24 been repeated outside BP to industry participants and damaged
25 SCHROEN'S reputation in the industry.
- 26 e. BP department head Steve Provenzano represented to Troy Black, a senior
27 manager at Barclay's that "Chris was hiding deals" and "screwed
28

1 everybody [at BP] over.” Statements of this type have been repeated on by
2 other personnel of Barclay’s.

3 f. Upon information and belief, statements of this type have also been made
4 by BP personnel to Marshall Clark of DGS and to DGS consultant Nancy
5 Moon, and are believed to have been communicated by Steve Provenzano
6 of BP to senior managers of at least two major international banks.

7 116. SCHROEN has lost at least one employment opportunity that has significantly
8 damaged SCHROEN’s earnings and earning capacity. After his firing by BP, SCHROEN applied
9 for an energy trading and structured finance position at an affiliate of Macquarie, a major
10 international bank. If hired to this position, SCHROEN would have earned salary and other
11 compensation comparable to his levels of compensation at BP. SCHROEN went through
12 multiple rounds of interviews at Macquarie, in which he received a favorable reception, and was
13 referred to higher interview levels. However, when SCHROEN interviewed with the most senior
14 manager of Macquarie, that manager, Nick O’Kane, informed SCHROEN of that he had spoken
15 with Provenzano of BP and Provenzano had informed the O’Kane of BP’s false allegations
16 against SCHROEN. As a result of the conversation with Provenzano, SCHROEN was not hired
17 and lost substantial earnings and earning capacity due to the false and defamatory actions of BP.

18 117. SCHROEN has obtained employment with his industry, but at a pay level
19 substantially below the level at which SCHROEN earned at BP and substantially below
20 compensation levels prevalent in the industry for persons of SCHROEN’S skills and experience.
21 But for BP’s retaliation and defamatory injury to SCHROEN’S reputation, SCHROEN’s earnings
22 and earning capacity would have remained at levels commensurate with SCHROEN’S skills and
23 levels of experience.

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1 **VI. 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)**

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

8 119. 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.

11 120. 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.

16 121. 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.

18 122. 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.

21 **SECOND CAUSE OF ACTION**

22 **CALIFORNIA FALSE CLAIMS ACT,**

23 **MAKING OR USING FALSE RECORDS OR STATEMENTS TO**

24 **OBTAIN PAYMENT OR APPROVAL OF FALSE CLAIMS**

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

26 **(Against All Defendants)**

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

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

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

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

11 127. The conduct of Defendants, and each of them, violated Government Code section
12 12651, subdivision (a)(2) and caused Plaintiffs to sustain damages in an amount according to
13 proof.

14 **THIRD CAUSE OF ACTION**

15 **CALIFORNIA FALSE CLAIMS ACT**

16 **CONSPIRACY TO VIOLATE THE FALSE CLAIMS ACT**

17 **California Government Code § 12651(a)(3)**

18 **(Against All Defendants)**

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

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

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

1 **FIFTH CAUSE OF ACTION**

2 **CALIFORNIA FALSE CLAIMS ACT, RETENTION OF PROCEEDS OF**
3 **INADVERTENTLY SUBMITTED FALSE CLAIMS**

4 **California Government Code § 12651(a)(8)**

5 **(In the Alternative, Against All Defendants)**

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

8 137. In the alternative, Defendants, and each of them, was a beneficiary of inadvertent
9 submissions of false claims to Plaintiffs, subsequently discovered the falsity of the claims, and
10 failed to disclose the false claims to Plaintiffs within a reasonable time after discovery of the false
11 claims.

12 138. Each Defendant was the beneficiary of false claims, bills and charges to Plaintiffs
13 that were based on fraudulently inflated natural gas prices, significantly above the contractual
14 agreements Defendants were to abide by.

15 139. Each Defendant knowingly submitted false claims for products and services that
16 were obtained by means of false representations regarding “market” prices.

17 140. Each Defendant, on discovering that it was the beneficiary of the submission of
18 false claims for payment, failed promptly to disclose the overcharge to Plaintiffs and failed to
19 make restitution of payments to which it was not entitled.

20 141. The conduct of Defendants, and each of them, violated Government Code section
21 12651, subdivision (a)(8) and caused Plaintiffs to sustain damages in an amount according to
22 proof.

23 **SIXTH CAUSE OF ACTION**

24 **On Behalf of *Qui Tam* Plaintiff**

25 **RETALIATION**

26 **Violation of Government Code § 12653(b)**

27 142. Plaintiffs incorporate herein by reference and reallege the allegations stated in
28 Paragraphs 1 through 117, inclusive, of this Complaint.

1 143. BP is covered by the retaliatory discharge statute, Government Code § 12653(b).

2 144. SCHROEN's acts alleged herein included the lawful disclosure of information to
3 the government, including DGS and Nancy Moon, in furtherance of a false claims action.

4 145. SCHROEN is entitled to all relief necessary to make him whole, including but not
5 limited to reinstatement with the same seniority to the position he had before the unlawful
6 termination, two times the amount of back pay, interest on the back pay, compensation for any
7 special damage sustained as a result of the discrimination, and punitive damages.

8 **SEVENTH CAUSE OF ACTION**

9 **On Behalf of *Qui Tam* Plaintiff**

10 **RETALIATION**

11 **Violation of Government Code § 12653(d)**

12 146. Plaintiffs incorporate herein by reference and reallege the allegations stated in
13 Paragraphs 1 through 117, inclusive, of this Complaint.

14 147. BP is covered by the retaliatory discharge statute, Government Code § 12653(d).

15 148. SCHROEN's was discharged, harassed and discriminated against by BP because
16 of his forced participation in BP's scheme, which resulted in the submission of false claims being
17 submitted to California and political subdivisions.

18 149. SCHROEN voluntarily disclosed the information contained herein to the state of
19 California and has otherwise acted in furtherance of a false claims action.

20 150. SCHROEN participated in BP's scheme to submit false claims to the state as a
21 result of threats of termination and demotion.

22 151. SCHROEN was otherwise coerced by BP to participate in the scheme alleged
23 herein.

24 152. SCHROEN is entitled to all relief necessary to make him whole, including but not
25 limited to reinstatement with the same seniority to the position he had before the unlawful
26 termination, two times the amount of back pay, interest on the back pay, compensation for any
27 special damage sustained as a result of the discrimination, and punitive damages.

1 **EIGHTH CAUSE OF ACTION**

2 **On Behalf of *Qui Tam* Plaintiff**

3 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

4 153. Plaintiffs incorporate herein by reference and reallege the allegations stated in
5 Paragraphs 1 through 117, inclusive, of this Complaint.

6 154. By the conduct herein alleged, Defendant BP threatened, harassed and
7 discriminated against SCHROEN in the terms and conditions of his employment and ultimately
8 terminated that employment.

9 155. This conduct was in violation of public policies and was taken to punish
10 SCHROEN for his opposition to Defendant BP's fraudulent and illegal practices.

11 156. In doing the things herein alleged, Defendant violated public policy by retaliating
12 against SCHROEN, including terminating his employment.

13 157. As a direct and proximate cause of BP's wrongful conduct, SCHROEN has
14 suffered damages, including, but not limited to, loss of salary, commissions, annual merit
15 increases, and other valuable employee benefits. Additionally, the actions of defendant BP were
16 carried out in a deliberate manner in conscious disregard of the rights of SCHROEN and were
17 malicious, despicable and were intended to harm him. Qui Tam Plaintiff is therefore entitled to
18 punitive damages against BP in an amount sufficient to punish defendant, and to deter future
19 similar misconduct.

20 **NINTH CAUSE OF ACTION**

21 **On Behalf of *Qui Tam* Plaintiff**

22 **BREACH OF CONTRACT**

23 158. Plaintiffs incorporate herein by reference and reallege the allegations stated in
24 Paragraphs 1 through 117, inclusive, of this Complaint.

25 159. In furtherance of the scapegoating and cover-up described herein, BP has clawed
26 back and deprived SCHROEN of earned compensation in the form of BP stock that was fully
27 earned and vested as of the time of the events described herein. SCHROEN had thousands of
28 shares of post-tax vested stock, and thousands of shares of pre-tax vested stock, as of January

1 2012. BP's failure and refusal to deliver such stock, or the value thereof, is a breach of contract.
2 Pursuant to such breach, SCHROEN is entitled to damages based on the value of such stock at the
3 time of trial, to incidental damages, and to costs of suit, including attorneys' fees reasonably
4 incurred in the pursuit of this claim.

5 **TENTH CAUSE OF ACTION**

6 **On Behalf of *Qui Tam* Plaintiff**

7 **DEFAMATION OF CHARACTER AT COMMON LAW**

8 160. Plaintiffs incorporate herein by reference and reallege the allegations stated in
9 Paragraphs 1 through 117, inclusive, of this Complaint.

10 161. The defamatory statements of BP against SCHROEN have, on information and
11 belief, continued and spread in the energy trading community, and damaged SCHROEN'S
12 employment and employability in this lucrative industry.

13 162. SCHROEN has suffered damages in excess of \$1,000,000 as a result of BP's
14 defamation of his character and reputation, and such damages are continuing. SCHROEN is
15 entitled to compensatory and punitive damages for such conduct.

16 **ELEVENTH CAUSE OF ACTION**

17 **On Behalf of *Qui Tam* Plaintiff**

18 **TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS RELATIONS**

19 163. Plaintiffs incorporate herein by reference and reallege the allegations stated in
20 Paragraphs 1 through 117, inclusive, of this Complaint.

21 164. The actions of BP in falsely accusing SCHROEN of misconduct and repeating
22 such false charges to Nick O'Kane, a senior manager of Maquarie, identified above, caused
23 SCHROEN to lose a valuable employment opportunity. This conduct was unjustified and
24 malicious, and entitles SCHROEN to compensatory and punitive damages in excess of
25 \$1,000,000.

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1 **VII. PRAYER FOR RELIEF**

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

4 1. That judgment be entered in favor of Plaintiffs STATE OF CALIFORNIA,
5 COUNTY OF SAN FRANCISCO, COUNTY OF LOS ANGELES, REGENTS OF THE
6 UNIVERSITY OF CALIFORNIA, and BOARD OF TRUSTEES OF THE CALIFORNIA
7 STATE UNIVERSITY, and ROES 1 through 200 (collectively, "Plaintiffs"), *ex*
8 *rel.* CHRISOPHER SCHROEN, and against Defendants BP plc a UK corporation, Defendant BP
9 America Production Company, a Delaware Corporation, Defendant BP Products North America,
10 a Maryland corporation, Defendant BP Energy Company a Delaware corporation, and Defendant
11 BP Corporation North America, Inc., an Indiana corporation; and each of them, jointly and
12 severally, according to proof, as follows:

- 13 a. On the First Cause of Action (Against All Defendants, California False
14 Claims Act; Presenting False Claims, California Government Code §
15 12651(a)(1)), damages as provided by California Government Code section
16 12651, subdivision (a), in the amount of:
- 17 i. Triple the amount of Plaintiffs' damages;
 - 18 ii. Civil penalties of Ten Thousand Dollars (\$10,000.00) for each false
19 claim;
 - 20 iii. Recovery of costs, attorneys' fees, and expenses;
 - 21 iv. Pre- and post-judgment interest;
 - 22 v. Such other and further relief as the Court deems just and proper;
- 23 b. On the Second Cause of Action (Against All Defendants, California False
24 Claims Act; Making or Using, or Causing To Be Made or Used, False
25 Records or Statements To Obtain Payment or Approval of False Claim,
26 California Government Code § 12651(a)(2)) damages as provided by
27 California Government Code section 12651, subdivision (a) in the amount
28 of:

- 1 i. Triple the amount of Plaintiffs' damages;
- 2 ii. Civil penalties of Ten Thousand Dollars (\$10,000.00) for each false
- 3 claim;
- 4 iii. Recovery of costs, attorneys' fees, and expenses;
- 5 iv. Pre- and post-judgment interest;
- 6 v. Such other and further relief as the Court deems just and proper;
- 7 c. On the Third Cause of Action (All Defendants, California False Claims
- 8 Act, Conspiracy to Violate the False Claims Act, California Government
- 9 Code § 12651(a)(3)) damages as provided by California Government Code
- 10 section 12651, subdivision (a) in the amount of:
- 11 i. Triple the amount of Plaintiffs' damages;
- 12 ii. Civil penalties of Ten Thousand Dollars (\$10,000.00) for each false
- 13 claim;
- 14 iii. Recovery of costs, attorneys' fees, and expenses;
- 15 iv. Pre- and post-judgment interest;
- 16 v. Such other and further relief as the Court deems just and proper;
- 17 d. On the Fourth Cause of Action (In the Alternative, Against All Defendants,
- 18 California False Claims Act, Retention of Proceeds Of Inadvertently
- 19 Submitted False Claims, California Government Code § 12651(a)(8))
- 20 damages as provided by California Government Code section 12651,
- 21 subdivision (a) in the amount of:
- 22 i. Triple the amount of Plaintiffs' damages;
- 23 ii. Civil penalties of Ten Thousand Dollars (\$10,000.00) for each false
- 24 claim;
- 25 iii. Recovery of costs, attorneys' fees, and expenses;
- 26 iv. Pre- and post-judgment interest;
- 27 v. Such other and further relief as the Court deems just and proper;
- 28

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

7 3. Further, the *Qui Tam* Plaintiff requests that, as a result of BP's unlawful
8 employment actions, *Qui Tam* Plaintiff receive all relief necessary to make him whole pursuant to
9 Government Code §§ 12653(b) and 12653(d), including reinstatement, lost earnings,
10 commissions, merit increases, benefits, back-pay, interest, damage to reputation and other
11 consequential damages, compensation for any other special damages, double damages, and
12 attorneys' fees and costs;

13 4. That, as a result of BP's unlawful employment actions, *Qui Tam* Plaintiff receive
14 all relief necessary to make him whole pursuant to the causes of action for wrongful employment
15 conduct, retaliation, and termination;

16 5. That, as a result of BP's violation of public policy, *Qui Tam* Plaintiff receive all
17 relief necessary to make him whole pursuant to law, including punitive damages;

18 6. That *Qui Tam* Plaintiff receive compensatory and actual damages according to
19 proof for breach of contract;

20 7. That *Qui Tam* Plaintiff receive actual damages according to proof for the eleventh
21 cause of action for tortuous interference with contract, and all other relief necessary in order to
22 make him whole pursuant to law, including punitive damages;

23 8. That *Qui Tam* Plaintiff be awarded all costs of this action, including attorneys' fees
24 and expenses; and

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1 9. That *Qui Tam* Plaintiff recover such other and further relief as the Court deems
2 just and proper.

3
4 Dated: March 15, 2013

COTCHETT, PITRE & McCARTHY, LLP

5
6 By:



NIALL P. McCARTHY
NANCI E. NISHIMURA
JUSTIN T. BERGER
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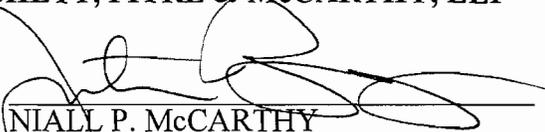
JURY DEMAND

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Dated: March 15, 2013

COTCHETT, PITRE & McCARTHY, LLP

By:



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