

[Date]

[Client Name]

[Client Address]

[City, State, Zip Code]

## **Re: Legal Opinion - Prior Disclosure and Penalty Mitigation under 19 U.S.C. § 1592**

Dear [Client Name],

This letter provides our legal opinion regarding the potential filing of a Prior Disclosure with U.S. Customs and Border Protection (CBP) concerning [briefly describe the non-compliance issue, e.g., tariff misclassification or valuation errors].

### **1. Executive Summary**

Based on our review of the import data from [Date Range], we have identified errors resulting in an underpayment of duties totaling \$[Amount]. We recommend submitting a Prior Disclosure to mitigate potential administrative penalties.

### **2. Legal Framework**

Under 19 U.S.C. § 1592, CBP may assess significant monetary penalties for material omissions or false statements. However, Section 1592(c)(4) provides that if a party discloses the circumstances of a violation before, or without knowledge of, the commencement of a formal investigation, penalties are substantially reduced.

### **3. Penalty Mitigation Analysis**

- **Without Disclosure:** Penalties for negligence can reach the lesser of the domestic value of the goods or two times the loss of duties. For fraud, penalties can equal the domestic value of the merchandise.
- **With Disclosure:** For violations involving negligence or gross negligence, the penalty is limited to the interest on the unpaid duties. For fraudulent violations, the penalty is reduced to 100% of the total duty loss.

### **4. Findings and Risks**

Our analysis indicates the errors occurred due to [Reason for error]. While there is no evidence of intent to defraud, the systematic nature of the error could be construed as [Negligence/Gross Negligence] by CBP. Currently, we are unaware of any pending CBP investigation into these specific entries.

### **5. Recommendation**

To secure "Prior Disclosure" status, we recommend the following steps:

1. Immediately file a preliminary letter with the appropriate Port Director.
2. Tender the unpaid duties and interest within 30 days of the disclosure.
3. Implement corrective internal controls to prevent recurrence.

## **6. Conclusion**

Filing a Prior Disclosure serves as an insurance policy against the maximum penalty regimes authorized by law. By proactively reporting these errors, [Client Name] demonstrates a commitment to regulatory compliance.

Sincerely,

[Your Name/Firm Name]

[Title]