

treated more than \$14 million in payments received from McCallum in 2001, 2002, and 2003 as indirect increases to C&A's income, when in fact C&A surreptitiously repaid McCallum for each such payment. These round-trip transactions should have had no impact on C&A's income statement. Beginning in 2002, C&A further inflated its quarterly earnings by improperly recognizing in income numerous rebates received from suppliers in return for anticipated future business and other benefits. In 2004 C&A extended this fraudulent rebate scheme to purchases of capital equipment, improperly recording discounts on equipment as rebates for past purchases of non-capital goods or services. Some of these rebates were recognized in income prematurely, while others should never have been recognized at all. As part of each of these schemes, C&A induced suppliers, including McCallum, to provide false or misleading documentation regarding the payments they made or promised to C&A. C&A then used these false documents to justify accounting for these payments contrary to generally accepted accounting principles ("GAAP"). C&A's materially inflated earnings figures were disclosed to the investing public in reports and registration statements filed with the Commission, in press releases, and in other public statements.

2. Stockman negotiated the round-trip transactions with McCallum and directed the rebate fraud. McCallum engaged in the round-trip transactions knowing they were intended to improperly inflate C&A's earnings and provided C&A with false documents to justify the improper accounting. Other C&A executives knowingly or recklessly played important roles in connection with the McCallum round-trip transactions or the supplier rebate scheme, or both, including J. Michael Stepp, who helped arrange the round-trip transactions with McCallum, knew about the rebate

scheme, and directed at least one of the improper rebate transactions; Gerald Jones, who helped arrange the round-trip transactions with McCallum and participated in the improper recognition of rebates in the second quarter of 2004; David R. Cosgrove, who advised C&A purchasing employees on the language to be used in false documentation regarding the rebates, knowing the documentation was being used to recognize the rebates improperly; Paul C. Barnaba, who directed Purchasing Department personnel to solicit side letters falsely describing the rebate terms, knowing the letters were being used to recognize the rebates improperly; and Thomas V. Gougherty, who solicited false documents and directed accounting personnel to recognize rebates, despite knowing that key documents were falsified and that such recognition was not in conformance with GAAP.

3. C&A improperly accounted for at least 132 supplier payment transactions. This resulted in an aggregate overstatement of C&A's pre-tax operating income, as reported in C&A's filings with the SEC, of over \$43.6 in twelve quarters (the fourth quarter of 2001 through the third quarter of 2004). Additionally, C&A improperly included over \$5.6 million in rebates in its earnings for the fourth quarter of 2004, which C&A reported in its press release of March 17, 2005.

4. When C&A's accounting manipulations came under scrutiny in early 2005, C&A attempted to minimize the fraud and conceal the company's perilous financial condition. During March and April, in two press releases, a conference call with analysts, and a presentation to potential investors, C&A made materially false or misleading representations regarding its liquidity situation, its financial outlook, and the

scope and impact of the rebate fraud. These materially false or misleading statements were designed in part to enable C&A to obtain additional financing.

5. Stockman directed C&A's effort in March and April 2005 to minimize the rebate fraud and hide C&A's financial condition. Other C&A executives knowingly or recklessly contributed to this concealment, including David R. Cosgrove, who reviewed investor presentation materials in March 2005 and knew that they contained false information to be disseminated to the public; John G. Galante, who helped draft a March 17, 2005 press release knowing that it contained false information and also provided false information for inclusion in an April 4, 2005 press release; and Christopher M. Williams, who participated in a scheme, directed by Stockman, to generate false documents regarding the company's borrowing base and thereby inflate the company's liquidity figures, knowing these liquidity figures would be reported to the public. The materially false or misleading public statements in March 2005 enabled C&A to secure millions of dollars in additional financing. Soon after C&A obtained these funds, its true financial condition became known and C&A filed for bankruptcy.

6. Stockman had major financial incentives to engage in the fraud. Stockman and his private equity firm Heartland Industrial Partners ("Heartland") had invested approximately \$360 million in C&A and knew that they would lose that investment if C&A's financial condition became public. By fraudulently inflating C&A's earnings and cash flow figures, Stockman was able to conceal C&A's true financial condition, secure additional funding, and maintain the appearance of financial viability. Moreover, throughout this period Heartland collected millions of dollars in management fees and other payments from C&A. Heartland received approximately \$45 million in

fees from C&A between 2001 and 2004, with approximately \$22 million ultimately going to Stockman. The other individual defendants also benefited from the fraud because it enabled them to continue receiving salary payments from C&A or, in the case of McCallum, to continue profitable business dealings with C&A.

JURISDICTION AND VENUE

7. The Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77v(a)] and Sections 21(e) and 27 of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78(u)(e) and 78aa].

8. Venue is proper in this district pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77v(b)] and Section 27 of the Exchange Act.

9. Defendants used the means or instrumentalities of interstate commerce or the mails in connection with the transactions described in this Complaint.

DEFENDANTS

10. C&A, a Delaware corporation headquartered in Troy, Michigan, manufactures and assembles parts used in automobile production. C&A operates facilities throughout North America and has approximately 12,000 employees. Prior to May 2005, C&A's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on the New York Stock Exchange. On May 17, 2005, C&A petitioned for Chapter 11 bankruptcy. On June 29, 2005, the Commission deregistered C&A's common stock and granted a New York Stock Exchange petition to delist C&A. C&A's fiscal year ends December 31st.

11. David A. Stockman is a co-founder and partner in Heartland, which acquired a controlling interest in C&A in 2001. Stockman became a member of C&A's Board of Directors in 2001 and in August 2003 became C&A's CEO, remaining in that position until May 2005. Stockman resides in Greenwich, Connecticut.

12. J. Michael Stepp ("Stepp") was C&A's Chief Financial Officer ("CFO") from 1995 to 1999. From 1999 to 2002 he was a consultant to C&A. He returned as C&A's CFO in January 2002 and remained in that position until he left C&A in October 2004. He served on C&A's board of directors from 2001 until April 2006. Stepp resides in Charlotte, North Carolina.

13. Gerald E. Jones ("Jones") served as Chief Operating Officer and Executive Vice President of C&A's Fabrics Division from 2000 to the end of 2006. He resides in Bahama, North Carolina.

14. David R. Cosgrove ("Cosgrove") was C&A's Vice President of Finance from February to August 2002, and Vice President for Financial Planning and Analysis from August 2002 until October 2004. In October 2004, Cosgrove became C&A's Corporate Controller, remaining in that position through May 2005. Cosgrove resides in Rochester, Michigan.

15. Elkin B. McCallum, 62, resides in Tyngsboro, Massachusetts. McCallum owns Joan Fabrics, a supplier to C&A, and sold businesses to C&A during the relevant period. He was a significant shareholder in C&A during the relevant period and served on its Board of Directors from September 2001 until May 2004.

16. Paul C. Barnaba ("Barnaba") was the Director of Financial Analysis for C&A's Purchasing Department from April 2002 until December 2004. In December

2004, Barnaba became a vice president and the Director of Purchasing for the Plastics Division. Barnaba left C&A in April 2005. He resides in Orion, Michigan.

17. Thomas V. Gougherty ("Gougherty") was Controller of C&A's International Plastics Division from July 2003 until September 2004, when he became Vice President of Finance and CFO of C&A's Global Plastics Division. He remained at C&A through at least May 2005. Gougherty resides in Gosslie, Michigan.

18. John G. Galante ("Galante") was C&A's Director of Strategic Planning from October 2002 to October 2004. He was Treasurer from October 2004 until July 2005. Galante resides in Frisco, Texas.

19. Christopher M. Williams ("Williams") joined C&A in 2000 as Director of Commercial Management for its contracts with Ford Motor Company. He was the Executive Vice President of the Business Development and Specialty Products groups from November 2004 through May 2005. Williams left C&A in January 2006. He resides in Troy, Michigan.

FRAUDULENT ACCOUNTING FOR SUPPLIER PAYMENTS

20. Heartland purchased a controlling interest in C&A in February 2001. Later that year C&A began inflating its earnings by engaging in round-trip transactions with McCallum. The next year C&A began immediately recognizing rebates (on purchases of raw materials) to which C&A was not then entitled. By 2004, C&A was also improperly recording rebates on purchases of capital equipment. These fraudulent schemes were designed in part to create the appearance that C&A's financial performance was improving under Stockman's direction.

A. Round-Trip Transactions With McCallum

21. The fraudulent accounting for supplier payments began in late 2001 when C&A sought \$3 million from McCallum to increase C&A's income for the fourth quarter. Stepp told McCallum that the \$3 million would be returned to him in 2002. McCallum agreed and transferred \$3 million to C&A in January 2002. This round-trip transaction was essentially a loan arrangement and should not have had any impact on C&A's income. Nevertheless, C&A recognized \$2.8 million of the \$3 million as a reduction of operating costs for the fourth quarter of 2001, thus inflating its earnings for that quarter. In March 2002 Stockman and McCallum agreed that C&A would repay the loan by transferring equipment worth approximately \$3 million to McCallum at no cost.

22. Also in March 2002, Stockman agreed to buy one of McCallum's businesses (Southwest Laminates) for more than its actual value, in exchange for future "rebate" payments to C&A from another McCallum company (Joan Fabrics). C&A then purchased Southwest Laminates for \$17 million, at least \$7 million more than C&A estimated it was worth. In return, McCallum agreed that Joan's Fabrics would pay C&A almost \$7 million in rebates that could be improperly recognized in income.

23. At additional meetings in late 2002, Stockman offered to overpay for another McCallum business and for furniture looms McCallum owned, in return for additional payments from Joan Fabrics. McCallum agreed to these round-trip transactions, and C&A paid him \$4.2 million for Dutton Yarns (which had been appraised at just above \$2 million), and \$4.7 million for furniture looms (worth about \$2 million). McCallum and Joan Fabrics then made payments to C&A corresponding to the

inflated purchase prices, and provided documentation falsely characterizing the payments as rebates on a supply contract between C&A and Joan Fabrics.

24. In total, C&A recognized approximately \$14.8 million in payments from McCallum from 2001 through 2003. All were round-trip transactions in which McCallum made payments that C&A labeled as rebates but repaid indirectly. C&A accounted for these payments as reductions in costs, increasing its pre-tax operating income (or reducing its pre-tax operating loss) as shown below, in millions:

	2001 (4th Q)	2002 (1st Q)	2002 (2nd Q)	2002 (3rd Q)	2002 (4th Q)	2003 (1st Q)
Operating income/ (loss) w/o McCallum payments	(\$16.3)	\$49.4	\$79.7	(\$6.3)	\$34.1	\$18.0
McCallum payments	\$2.8	\$5.0	\$1.8	\$2.0	\$2.0	\$1.2
Operating income (loss), as reported	(\$13.5)	\$54.4	\$81.5	(\$4.3)	\$36.1	\$19.2
% change due to McCallum payments	17%	10%	2%	32%	6%	7%

25. Stockman personally negotiated the round-trip transactions with McCallum. Stepp helped arrange and collect the payments from McCallum, while Jones helped collect the payments from McCallum and assisted in the transactions through which McCallum was repaid. Stockman, McCallum, Stepp, and Jones knew, or were reckless in not knowing, that the McCallum payments were actually improper round-trip transactions intended to inflate C&A's earnings and that the false earnings figures would materially affect C&A's financial statements and the reports and registration statements C&A filed with the SEC. Further, during an investigation by C&A's Audit Committee in

2003, Stockman, Stepp, McCallum and Jones continued to conceal the true nature of the McCallum transactions. McCallum made false statements to the Audit Committee and signed a false or misleading representation letter regarding his payments. Stockman, Stepp, and Jones made false statements to C&A's Audit Committee and provided the Audit Committee with false position papers regarding the transactions. Each knew, or was reckless in not knowing, that KPMG would rely of these false statements and documents in connection with its audit of C&A's financial statement for 2003.

B. Purchasing Rebates

(i) Goods and Services

26. Supply contracts in the automotive industry frequently provide that suppliers will pay rebates to their customers in return for a specified volume or type of future business. Rebates are properly recorded by the customer as reductions in cost, which has the effect of increasing income. However, because the customer is not entitled to the rebate until the promised purchases have been made, immediate recognition of the entire rebate is inconsistent with GAAP.

27. In early 2002 C&A began to further inflate its quarterly earnings by improperly recognizing rebates tied to the future purchases of goods and services. As part of this scheme, C&A's Purchasing Department arranged for suppliers to create false or misleading documents stating that the rebates were based on past purchases. The false documentation was held by C&A for use in the event auditors questioned its recognition of the rebate in income.

28. One of the first fraudulent rebates C&A's Purchasing Department negotiated was from PPG Industries, Inc. ("PPG"), a paint supplier. In April 2002, PPG

agreed to pay C&A a rebate in exchange for a specified volume of new business. At the direction of C&A's finance department, Barnaba worked with the Purchasing Department to solicit a side letter from PPG falsely stating that the rebate was based on past purchases. This letter provided a pretext for C&A's immediate recognition of the full amount of the rebate (\$500,000) in the second quarter of 2002. Barnaba knew that the purpose of obtaining the side letter was to allow C&A to account for the rebate improperly. The PPG side letter became the template used in preparing side letters for subsequent rebate transactions.

29. C&A extended the rebate scheme to several other Plastics Division agreements during the remainder of 2002. C&A improperly recognized income based on rebate agreements with, among others, Brown Corporation (\$900,000 rebate recognized in Q3 2002), Jackson Plastics, Inc. (\$138,750 rebate recognized in Q3 2002), Flambeau Corporation (\$235,000 rebate recognized in Q3 2002), ATC, Inc. (\$123,470 rebate recognized in Q4 2002), Pine River Plastics, Inc. (\$67,000 rebate recognized in Q4 2002), and (again) Jackson Plastics, Inc. (\$46,250 rebate recognized in Q4 2002).

30. By the first quarter of 2003 it was standard operating procedure for C&A's Purchasing Department to solicit false or misleading side letters in connection with agreements negotiated on behalf of the Plastics Division. Cosgrove, who was in charge of C&A's Financial Planning and Analysis Group, instructed the Purchasing Department to obtain the side letters and provided detailed language for these letters. Barnaba ensured that Purchasing Department employees obtained the side letters and that these letters provided an apparent justification for the improper accounting.

31. Stockman played a hands-on role in C&A's day-to-day operations before he became CEO in August 2003. From at least the second quarter of 2003, Stockman met with Purchasing Department employees at least quarterly and emphasized the importance of negotiating supplier rebates. He routinely identified the suppliers to target, the size of the rebates to demand, and the incentives to offer. Stockman directed that the rebates be used to boost income in the current quarter even though he knew, or was reckless in not knowing, that such recognition was improper because the rebate income was contingent on future purchases from the suppliers. One such meeting took place on May 27, 2003, when Stockman spoke via conference call with purchasing officials from all three C&A divisions. During that call, Stockman directed C&A's purchasing officials to increase income in the second quarter of 2003 by "pulling ahead" rebates that would otherwise be properly recognized in future quarters.

32. During the second quarter of 2003, C&A improperly recognized rebates from, among others, Brown Corporation (\$500,000), Dow (\$400,000), and Manufacturer's Products (\$150,000). C&A also recognized a \$1.2 million rebate from DuPont Textiles & Interiors ("DuPont") in the second quarter of 2003, even though this was actually a short-term loan similar to the McCallum payments. Both Stockman and Stepp were directly involved in C&A's fraudulent accounting for the DuPont transaction.

33. Stockman became CEO in August 2003 and continued to direct the rebate scheme. In the third quarter of 2003, Stockman was personally involved in negotiating a \$1.56 million rebate agreement with Exxon Mobil Corp. ("Exxon"). Stockman met with Exxon representatives as part of the negotiations, was regularly briefed on the status of the negotiations, and knew the terms of the final rebate agreement. As finalized, the

supply contract with Exxon provided that the \$1.56 million rebate was not due until the next quarter (Q4 2003), was contingent on purchases by C&A in that next quarter, and was to be partially refunded if C&A did not make additional purchases the following year. Nevertheless, C&A improperly recognized the entire \$1.56 million in income in the third quarter of 2003. Stockman knew, or was reckless in not knowing, that it was improper to immediately recognize rebates that were contingent on future purchases and that accounting for the Exxon rebate in this way improperly inflated C&A's income.

34. In late 2003 Stockman instructed C&A's Purchasing Department to obtain a \$1 million rebate from Flambeau Corporation ("Flambeau") by promising future business. Cosgrove advised Stepp and C&A purchasing officials on how to prepare a side letter to justify immediate recognition of the potential rebate. This letter was false or misleading in that it stated that the Flambeau rebate was for past purchases. C&A nevertheless improperly recognized the anticipated \$1 million Flambeau rebate in the third quarter of 2003. Cosgrove and Stepp, like Stockman, knew, or were reckless in not knowing, that this immediate recognition was improper and designed to inflate C&A's income.

35. Similarly, in December 2003 C&A persuaded Reko International Group, Inc. ("Reko") to provide a \$250,000 rebate in exchange for a guarantee of future business. Stockman determined what the terms of the rebate agreement would be and Galante negotiated the agreement with Reko. Galante arranged for the rebate to be described in one letter and the guarantee of future business to be expressed in a separate letter. Cosgrove approved the use of the two letters, and Stockman and Stepp knew that Reko was providing a side letter not referring to the future business contingency. C&A

recognized the anticipated \$250,000 rebate during the fourth quarter of 2003 as if there were no contingency. Stockman, Stepp, Galante and Cosgrove knew, or were reckless in not knowing, that this recognition was improper and designed to inflate C&A's income.

36. In June 2004, C&A negotiated a \$1.5 million rebate from GE Advanced Materials ("GE") contingent on future purchases. At C&A's request, GE signed a side letter intended to hide the contingency. C&A then demanded and received a revised version of the side letter, in order to better hide the true terms of the agreement.

Stockman knew that the anticipated GE rebate was contingent on future purchases and that C&A was nevertheless recognizing the rebate in the second quarter of 2004. The GE agreement eventually fell apart, C&A did not provide GE the promised business, and GE never paid the rebate. Nevertheless, C&A retained the previously recorded rebate on its books with Stockman's knowledge and approval.

37. In mid-2004 Stockman drew the Fabrics Division into the rebate scheme. During a meeting in North Carolina in May 2004, Stockman directed the Fabrics Division to solicit rebates based on future business but paper the transactions to justify the immediate recognition. In the second quarter of 2004, the Fabrics Division improperly recognized a \$200,000 rebate from Unifi, a \$150,000 rebate from M. Dohmen, U.S.A., Inc., and a \$49,000 rebate from Clariant Corporation, in each case obtaining fraudulent side letters. Stockman knew, or was reckless in not knowing, that these transactions were recognized improperly. Jones, the head of C&A's Fabrics Division, knew that employees in his division were carrying out Stockman's instructions and therefore knew, or was reckless in not knowing, that the rebates were accounted for improperly.

38. At about the same time, C&A also expanded the rebate scheme to other products and services. In June 2004, C&A negotiated a \$150,000 rebate agreement with Allied Waste, contingent on future business. Here too C&A solicited a side letter falsely tying the rebate to past business. Although the Allied Waste agreement was executed in October 2004, C&A improperly recognized the rebate in income in the second quarter of 2004. Stockman and Stepp knew the rebate was contingent on future business, and therefore knew, or were reckless in not knowing, that its immediate recognition was improper.

39. During the second quarter of 2004 C&A also negotiated rebates for its European operations, including an agreement calling for LVM to provide a €350,000 rebate (approximately \$430,000) when a new supply contract was signed. The new contract was not signed until February 2005. Gougherty, the Controller for C&A's International Plastics Division, nevertheless directed his subordinates to recognize improperly the anticipated LVM rebate in the second quarter of 2004. Gougherty knew at that time that the new supply contract had not been signed and consequently knew, or was reckless in not knowing, that the rebate could not be recognized consistent with GAAP.

40. C&A continued to improperly recognize rebates on future purchases of goods and services through the third quarter of 2004, the last quarter for which C&A filed a quarterly or annual report with the SEC. This included rebates from Angell Manufacturing (\$97,197), Exxon (\$44,000), and Trim Stamping (\$227,850).

41. C&A never filed a report with the SEC reflecting the fourth quarter of 2004. However, during the fourth quarter C&A continued to record rebates in income

improperly, including rebates from Aerotek (\$40,000), Vichem (\$75,000), and Meurdter (\$69,000). The fraudulent accounting for these rebates was included in earnings figures released by C&A in March 2005.

42. Stockman was aware of, approved, and directed the scheme to increase income by prematurely recognizing rebates on supply contracts. Stockman knew, or was reckless in not knowing, that C&A was not entitled to the rebates if it did not provide the promised future business, and that C&A's immediate recognition of the rebates in income was improper. Stockman also participated personally in many of the rebate transactions, including Exxon, Flambeau and Reko. Stepp supervised Galante in the negotiation of the Reko rebate, participated in Purchasing Department meetings at which the rebate scheme was discussed, and knew that the Flambeau agreement had been "papered" so as justify immediate recognition of the rebate in income. Jones was aware of the rebate scheme as it related to the Fabrics Division, participated in the meeting where Stockman directed Fabrics Division personnel to negotiate rebates, and understood that his employees were obtaining false documentation for such rebates. Cosgrove advised C&A's Purchasing Department on the language for the side letters, knowing that these letters were false or misleading and designed for use in improperly accounting for the rebates. Barnaba initially served as a liaison between Cosgrove and C&A's Purchasing Department, knowingly conveying Cosgrove's directions on how the rebates should be structured to implement the fraud and ensuring that Cosgrove's instructions were carried out. Later Barnaba supervised Purchasing Department employees in soliciting documentation he knew was false and designed for use in improperly accounting for the rebates. Gougherty directed accounting employees in the International Plastics Division to recognize the

rebate in income immediately in connection with the LVM transaction, despite knowing that the rebate was contingent on future events. When taking these actions, Stockman, Stepp, Jones, Cosgrove, Barnaba, and Gougherty knew, or were reckless in not knowing, that C&A's treatment of the rebates did not reflect the true terms of the supply contracts and was intended to falsely inflate C&A's reported current earnings. Likewise, Stockman, Stepp, Jones, Cosgrove, Barnaba, and Gougherty knew, or were reckless in not knowing, that the side letters and other false documents were intended to mislead KPMG and that KPMG did in fact rely on some of the false documents.

(ii) Capital Equipment Expenditures

43. In 2004 C&A expanded the fraudulent rebate scheme to include capital equipment expenditures. Under GAAP, discounts on capital equipment affect the book value of the purchased asset and are not immediately recognizable in income. Nevertheless, at Cosgrove's direction and with Stockman's approval, C&A began requiring suppliers to falsely state that price discounts on capital equipment they sold to C&A were rebates for past purchases of non-capital goods or services. C&A then improperly recognized the rebates in income.

44. In April 2004, Demag Plastics Group ("Demag") agreed to a \$1 million rebate in lieu of a discount on the purchase price of machinery it was selling to C&A. Knowing that C&A was receiving the rebate in place of a discount, Stockman instructed Cosgrove (through Barnaba) to ensure that the rebate was falsely documented so that it could be treated as an increase to income. At Cosgrove's direction, C&A personnel obtained documentation from Demag falsely attributing the rebate to past purchases by

C&A of spare parts and other services. C&A improperly recognized the \$1 million in income in the second and third quarters of 2004.

45. When C&A negotiated a \$1 million discount on machinery purchased from Cincinnati Milacron, Stockman again directed Barnaba to work with Cosgrove to prepare paperwork that could be used to provide false justification for immediate recognition in income. The resulting documentation falsely ascribed the rebate to the purchase of “implementation training services, technical support and continuous improvements.” The \$1 million was recognized in the third quarter of 2004. Gougherty, who had become Controller of the Global Plastics Division, directed the improper recognition of at least \$600,000 of this rebate.

46. C&A's fraudulent accounting for capital equipment purchases materially increased C&A's reported income for the second and third quarters of 2004. During this period, C&A improperly recognized at least \$7.2 million in pre-tax operating income based on capital expenditure rebates.

47. C&A continued to use rebates on capital equipment to fraudulently inflate income in the fourth quarter of 2004. Pursuant to directions from Gougherty, the Global Plastics Division played a prominent role in the rebate scheme during this period, using rebates to compensate for deterioration in its earnings. In December 2004, Gougherty assisted in obtaining false documentation from Krauss Maffei to disguise a €165,000 discount (approximately \$224,000) on capital equipment C&A was purchasing. Gougherty instructed a subordinate to obtain false documents attributing the rebate to prior purchases of non-capital items. Similarly, during the fourth quarter of 2004 C&A

also improperly recorded rebates on capital equipment purchases from Demag (\$92,000), RPT (\$100,000), and Conair (\$38,000).

48. Stockman directed and participated in the scheme to improperly treat discounts on capital equipment as rebates, knowing that the documentation was fraudulent and would improperly inflate C&A's income. Cosgrove knew that immediately recording rebates on capital equipment purchases in income was contrary to GAAP. However, he instructed Purchasing Department employees to obtain documents falsely attributing the rebates to past purchases of other items to justify accounting for the rebates improperly and thereby inflate C&A's income. Barnaba directed Purchasing Department employees in implementing the false rebate transactions, knowing that the transactions were fraudulent. Gougherty instructed employees under his direction to recognize the Cincinnati Milacron rebate as income in the third quarter of 2004 although he knew, or was reckless in not knowing, that this was improper. He later had his subordinates solicit false documentation for the Krauss Maffei rebate although he knew, or was reckless in not knowing, that this was improper and designed to falsely inflate C&A's income. Stockman, Cosgrove, Barnaba and Gougherty knew, or were reckless in not knowing, that the false documents were intended to mislead KPMG and that KPMG did in fact rely on some of the false documents.

OVERSTATEMENT OF EARNINGS

49. In August 2004, C&A sold \$415 million in restricted senior subordinated notes. C&A's offering memoranda incorporated C&A's financial statements from 2001 through the second quarter of 2004. Because C&A's financial statements for the fourth quarter of 2001 through the second quarter of 2004 were materially false or misleading,

the offering memoranda were false or misleading. Stockman, Stepp, and Cosgrove participated in drafting these memoranda or in the marketing presentations relating to sale of the restricted senior subordinated notes, knowing that the memoranda and the marketing materials contained false or misleading financial information due to C&A's improper recognition of supplier payments.

50. In connection with C&A's quarterly reports for the second quarter of 2003 through the third quarter of 2004 and C&A's annual report for 2003, Stockman signed certifications stating that the C&A financial statements and other financial information included in the reports fairly presented C&A's financial condition, results of operations, and cash flows for the reporting period. Stepp signed such certifications in connection with C&A's quarterly reports for the third quarter of 2002 through the second quarter of 2004 and C&A's annual reports for 2002 and 2003. These certifications were false or misleading, and were known by Stockman and Stepp to be false or misleading.

51. As a result of the round-trip transactions with McCallum and the fraudulent rebate scheme, C&A materially overstated its income, or reduced its losses, in its quarterly reports (Form 10-Q) and annual reports (Form 10-K) for each reporting period from the fourth quarter of 2001 through the third quarter of 2004. Stockman and McCallum signed C&A's annual reports (Form 10-K) for each year from 2001 through 2003. Stepp signed all of C&A's filings from the 10-K for 2001 through the quarterly report (Form 10-Q) for the second quarter of 2004. The following table identifies the impact (in millions) of the improper recognition of the McCallum round-trip payments and the other improper supplier transactions on C&A's pre-tax operating income (or pre-tax operating loss) in each reported quarter:

Year	Quarter	Operating income/(loss) w/o improper transactions	Improper supplier transactions	Operating income / (loss) as reported	% change due to improper transactions
2001	Q4	(\$16.3)	\$2.8	(\$13.5)	17%
2002	Q1	49.4	5.0	54.4	10%
	Q2	79.2	2.3	81.5	3%
	Q3	(7.6)	3.3	(4.3)	43%
	Q4	33.9	2.2	36.1	6%
2003	Q1	17.5	1.7	19.2	10%
	Q2	41.1	3.0	44.1	7%
	Q3	4.1	4.2	8.3	102%
	Q4	25.7	4.7	30.4	18%
2004	Q1	28.8	1.1	29.9	4%
	Q2	20.7	5.4	26.1	26%
	Q3	1.6	7.9	9.5	494%
Total			\$43.6		

52. C&A has not filed any quarterly or annual reports with the Commission since filing its Form 10-Q for the third quarter of 2004 in November 2004.

53. On January 27, 2005, C&A filed a registration statement with the SEC in connection with an anticipated exchange, for unrestricted notes, of the \$415 million in restricted senior subordinated notes sold in August 2004. The registration statement included C&A's quarterly and annual financial statements from 2001 through the third quarter of 2004. These financial statements materially overstated C&A's earnings and consequently the January 2005 registration statement was false or misleading. Stockman, Stepp, and Cosgrove signed this registration statement knowing it contained false or misleading financial information.

FALSE PUBLIC STATEMENTS IN EARLY 2005

54. In late 2004, KPMG learned of C&A's widespread effort to obtain rebates and requested documentation for all rebates negotiated in 2004. In early 2005, Stockman reluctantly agreed to begin an internal investigation by C&A management of the rebates.

But rather than aggressively pursuing the investigation, Stockman attempted to limit its scope, minimize the significance of the violations, and conceal his involvement and the involvement of other senior C&A managers. Stockman also orchestrated an effort to conceal C&A's dire financial condition. In a March 17 press release, an earnings call on the same date, and a presentation to potential bond purchasers one week later, C&A materially misrepresented its financial condition. This deception enabled C&A to obtain \$75 million in additional financing. Further, C&A's April 4, 2005 press release announcing this additional financing contained false or misleading financial information.

A. March 17, 2005 Press Release

55. On March 17, 2005, C&A issued a press release announcing its fourth-quarter and year-end results for 2004 and disclosing that there had been improper accounting for rebates. This press release also provided information on C&A's liquidity situation and management's internal investigation of the rebates. Much of the information C&A provided with regard to its fourth quarter income, current liquidity situation, and the rebate investigation was materially false or misleading.

56. The March 17, 2005 press release stated that C&A's earnings before interest, taxes, depreciation, and amortization (commonly referred to as "EBITDA") for the fourth quarter of 2004 were \$72-73 million. This included at least \$5.8 million in improperly recorded rebates, making the press release false or misleading.

57. When the March 17 press release was issued, C&A was facing a liquidity crisis and did not have enough money to pay its bills. To hide this fact, Stockman directed that all 2005 liquidity figures be omitted from the press release. The only liquidity figure used in the press release was from December 31, 2004, more than two

months earlier. Stockman and Galante knew, or were reckless in not knowing, that in view of the liquidity crisis being experienced by C&A, the failure to disclose current liquidity information in the March 17 press release made that release materially misleading.

58. The March 17 press release stated that C&A's liquidity on December 31, 2004, was \$86 million. The majority of that liquidity was undrawn commitments under its accounts receivable facility. But C&A could not have borrowed the full amount of the undrawn commitments without breaching financial covenants. In fact, only approximately \$12 million in liquidity was available to C&A on December 31, 2004. C&A's use of the \$86 million liquidity figure without reference to the covenant restrictions was inconsistent with C&A's prior disclosure practices and materially misleading. Stockman and Galante understood the impact of the restrictive covenants, were aware of C&A's prior disclosure practices, and knew that far less than \$86 million would have been available to C&A on December 31, 2004.

59. The March 17 press release also contained material misrepresentations concerning the scope of management's internal investigation and the impact of the improper accounting for rebates. C&A stated in this press release that the rebates recognized in 2002 had been reviewed, and implied that no restatement was necessary for 2002, when in fact there had been little or no scrutiny of the 2002 rebates. The March 17 press release also intentionally understated the degree to which restatements would be required due to the rebates in 2003 and 2004.

60. The March 17 press release attributed C&A's improper rebate accounting to a failure of "controls" and "procedures." This gave the false impression that the

improper accounting was caused by inadvertence or negligence. In truth, the improper rebate accounting was the intended product of a concerted scheme.

61. Stockman drafted portions of the March 17 press release which he knew, or was reckless in not knowing, would mislead the public about C&A's fourth quarter earnings, its liquidity situation, the scope of the rebate scheme, and the involvement of senior managers in the rebate scheme. Galante participated in drafting the release and knew, or was reckless in not knowing, that statements therein concerning C&A's liquidity situation and the internal investigation were false and misleading. On March 17, 2005, C&A filed this press release with the Commission as a current report (on Form 8-K).

B. March 17, 2005 Earnings Call

62. On March 17, 2005, Stockman presided over a conference call in which C&A's 2004 earnings were publicly presented. Stockman prepared the charts discussed during that call, made C&A's presentation, and took questions. During the call he made several material misrepresentations regarding C&A's financial condition.

63. Stockman provided an unreasonable forecast of C&A's anticipated EBITDA for the first quarter of 2005. Stockman stated that EBITDA would be between \$65 million and \$75 million, even though he knew, or was reckless in not knowing, that EBITDA for the first quarter would be roughly half that figure.

64. Stockman also stated that capital expenditures in 2005 would be limited to \$30 million quarterly. Stockman knew, or was reckless in not knowing, when he made this statement that C&A had already exceeded \$30 million in capital expenditures for the first quarter of 2005, and was projected to incur over \$50 million in capital expenditures for the quarter.

65. When asked during the call whether C&A was "tapping out" its liquidity, Stockman answered "no." Stockman knew at that time, or was reckless in not knowing, that C&A did not have enough liquidity to pay its bills and that his negative response was untrue.

66. Prior to the March 17 earnings call, Cosgrove previewed the charts Stockman intended to use during the call. Cosgrove was responsible for C&A's forecasting and budgeting and he knew, or was reckless in not knowing, that these charts contained false or misleading statements regarding EBITDA and capital expenditures. Nevertheless, Cosgrove did not correct these statements or ask that they be corrected.

C. March 23, 2005 Bond Presentation

67. On March 23, 2005, Stockman led a presentation to potential bond investors. The notes C&A had sold in August 2004 were now being resold by their original purchasers, and C&A was helping to promote the resale. During this presentation Stockman used the same charts he had presented during the March 17, 2005 earnings call. These charts contained material misrepresentations regarding EBITDA and capital expenditures, as described above in connection with the March 17 call. Based on this presentation, which Stockman knew or was reckless in not knowing contained misrepresentations, investors bought millions of dollars of senior subordinated notes.

D. April 4, 2005 Press Release

68. On April 4, 2005, C&A issued a press release stating that "the Company's available liquidity (cash and unutilized commitments under revolving credit and account receivables facilities) was approximately \$81 million at March 31, 2005, as compared with approximately \$86 million at December 31, 2004." Galante provided the liquidity

figures for the press release and Stockman approved the use of those figures in the release.

69. The liquidity figures in the April 4 press release were false. Due to its debt covenants, C&A had approximately \$12 million in liquidity on December 31, 2004, rather than \$86 million. Similarly, on March 31, 2005, C&A had materially less than the claimed \$81 million in liquidity.

70. The \$81 million liquidity figure in the April 4 press release was false or misleading for an additional reason. General Electric Capital Corporation (“GECC”) made loans to C&A through an accounts receivable securitization facility. Between January 2005 and April 2005, C&A employees, at Stockman’s direction and under Williams’ supervision, added approximately \$120 million in ineligible receivables to the borrowing base under the GECC agreement. C&A used the additional liquidity generated by this scheme to create a false \$52 million liquidity cushion. This liquidity cushion constituted most of the \$81 million reported in the April 4 press release.

71. Stockman was primarily responsible for the scheme to inflate C&A’s reported liquidity, through the fraudulent use of the GECC accounts receivable securitization facility. Stockman directed Williams and others to create invoices prematurely and include those invoices in the borrowing base, knowing that this violated the agreement with GECC. Williams ensured that his employees in C&A's Business Group carried out Stockman’s instructions, even though he knew, or was reckless in not knowing, that they were improper and that the inflated liquidity figures would be reported to the public. When drafting the April 4 press release, Stockman and Galante knew, or were reckless in not knowing, that the liquidity figure provided for March 31, 2005, was

false or misleading, because it was inflated by \$52 million that had been obtained from the fraudulently inflated GECC borrowing base.

72. On April 5, 2005, C&A filed this press release with the Commission as a current report (Form 8-K).

FIRST CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act (C&A, Stockman, Stepp, and Cosgrove)

73. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

74. Pursuant to 17(a) of the Securities Act [15 U.S.C. § 77q(a)], it is unlawful for any person, in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, to (i) employ any device, scheme, or artifice to defraud, (ii) obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or (iii) engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

75. C&A, Stockman, Stepp, and Cosgrove, acting knowingly, recklessly, or negligently, violated Section 17(a) in August 2004 when C&A sold \$415 million in senior subordinated notes, as described in Paragraph 49. The offering memorandum relating to these notes included financial information from 2001 through June 30, 2004, that was materially false or misleading due to the fraudulent payment and rebate recognition schemes. Stockman, Stepp and Cosgrove participated in the road shows

and/or prepared the materials for those road shows, knowing that those materials contained false or misleading financial information.

76. C&A, Stockman, Stepp, and Cosgrove, acting knowingly, recklessly, or negligently, violated Section 17(a) on January 27, 2005 when C&A filed a registration statement containing materially false or misleading financial information for the period from 2001 through September 30, 2004, as described in Paragraph 53. Stockman, Stepp, and Cosgrove signed this registration statement.

77. Stockman, acting knowingly, recklessly, or negligently, violated Section 17(a) by making materially false or misleading statements to potential bond investors at the March 23, 2005 meeting, as described in Paragraph 67.

78. Unless restrained, C&A, Stockman, Stepp, and Cosgrove will continue to violate Section 17(a).

SECOND CLAIM FOR RELIEF

Violations of Sections 10(b) of the Exchange Act and Exchange Act Rule 10b-5 (C&A, Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams)

79. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

80. Pursuant to Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5], it is unlawful for any person in connection with the purchase or sale of any security, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, to (a) employ any device, scheme, or artifice to defraud; (b) obtain money or property by means of any untrue statement of a material fact or any

omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

81. C&A, Stockman, McCallum, Stepp, and Jones, acting knowingly or recklessly, violated Section 10(b) and Rule 10b-5 in connection with the round-trip transactions with McCallum as described in Paragraphs 20-25. Their acts and omissions resulted in material overstatement of C&A's earnings from October 2001 through March 31, 2003. These overstatements were included in the offering memorandum issued in August 2004, the registration statement filed on January 27, 2005, and in quarterly, annual, and current reports filed with the Commission, as described in Paragraphs 3, 24, 49-51, and 53.

82. C&A, Stockman, Jones, Cosgrove, McCallum, Barnaba, and Gougherty, acting knowingly or recklessly, violated Section 10(b) and Rule 10b-5 in connection with C&A's purchasing rebate scheme as described in Paragraphs 20 and 26-48 above. Their acts and omissions resulted in material overstatement of C&A's reported earnings from April 2002 through September 2004. These overstatements were included in the offering memorandum issued in August 2004, the registration statement filed on January 27, 2005, and in quarterly, annual, and current reports filed with the Commission, as described in Paragraphs 3, 24, 49-51, 53, 55-61.

83. C&A, Stockman, and Galante, acting knowingly or recklessly, violated Section 10(b) and Rule 10b-5 connection with the press release of March 17, 2005, as described in Paragraphs 55-61.

84. C&A, Stockman, and Cosgrove, acting knowingly or recklessly, violated Section 10(b) and Rule 10b-5 in connection with the earnings call of March 17, 2005, as described in Paragraphs 62-66.

85. C&A and Stockman, acting knowingly or recklessly, violated Section 10(b) and Rule 10b-5 during the bond presentation on March 23, 2005, as described in Paragraph 66.

86. C&A, Stockman, Galante, and Williams, acting knowingly or recklessly, violated Section 10(b) and Rule 10b-5 in connection with press release of April 4, 2005, as described in Paragraphs 68-72.

87. Unless restrained, C&A, Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams will continue to violate Section 10(b) and Rule 10b-5.

THIRD CLAIM FOR RELIEF

Aiding and Abetting Violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 (Jones, Barnaba, Gougherty, and Williams)

88. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

89. C&A violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 as stated above in the Second Claim For Relief.

90. Pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)] whoever “knowingly provides substantial assistance” to another person in connection with a violation of the Exchange Act, or any regulation thereunder, is "deemed to be in

violation of such provision to the same extent as the person to whom such assistance is provided.”

91. As described in Paragraphs 20-48 and 54-72, Jones, Barnaba, Gougherty, and Williams knowingly provided substantial assistance to C&A in connection with C&A’s violations of Section 10(b) and Rule 10b-5, and thereby violated Section 10(b) and Rule 10b-5 to the same extent as C&A.

92. Unless restrained, Jones, Barnaba, Gougherty, and Williams will continue to aid and abet violations of Section 10(b) and Rule 10b-5 .

FOURTH CLAIM FOR RELIEF

Violations of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13 (C&A)

93. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

94. Pursuant to Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13], every issuer of a security registered pursuant to Section 12 of the Exchange Act must file accurate quarterly, annual, and current reports with the Commission. Rule 12b-20 further requires that in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

95. The quarterly reports (Form 10-Q) filed by C&A for the fourth quarter of 2001 through the third quarter of 2004, the annual reports (Form 10-K) filed by C&A for

2001, 2002, and 2003, and the current reports (Form 8-K) filed by C&A on March 17 and April 5, 2005, were inaccurate because they contained materially false or misleading financial information, and failed to provide such additional material information as necessary to make the statements therein not misleading, as described in Paragraphs 49-72.

96. C&A failed to file an annual report for 2004 and failed to file a quarterly report for the first quarter of 2005.

97. By reason of the foregoing, C&A violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13, and unless restrained will continue to violate those provisions.

FIFTH CLAIM FOR RELIEF

Aiding and Abetting C&A's Violations of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13 (Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams)

98. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

99. C&A violated Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13 by failing to file accurate quarterly, annual, and current reports as alleged in the Fourth Claim For Relief.

100. Pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)] whoever "knowingly provides substantial assistance" to another person in connection with a violation of the Exchange Act, or any regulation thereunder, is "deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided."

101. Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams each knowingly provided substantial assistance to C&A in connection with one or more inaccurate quarterly, annual, or current reports filed by C&A between April 2002 and April 2005, as described in Paragraphs 1-6 and 20-72, and thereby violated Section 13(a) and Rule 12b-20, as well as Rule 13a-1 (for annual reports), Rule 13a-11 (for current reports), or Rule 13a-13 (for quarterly reports).

102. Unless restrained, Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams will continue to aid and abet violations of these reporting provisions.

SIXTH CLAIM FOR RELIEF

Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act (C&A)

103. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

104. Pursuant to Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)], every issuer of a registered security must (i) maintain books and records accurately and fairly reflecting its transactions and the disposition of its assets, and (ii) establish a system of internal accounting controls that provides reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP.

105. C&A violated Sections 13(b)(2)(A) and 13(b)(2)(B) from the fourth quarter of 2001 through the first quarter of 2005 by failing to (i) maintain books and records accurately and fairly reflecting its transactions and the dispositions of its assets, and (ii) establish a system of internal accounting controls that provides reasonable

assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP, as described in Paragraphs 1-6, 20-53, and 70-71.

106. Unless restrained, C&A will continue to violate Sections 13(b)(2)(A) and 13(b)(2)(B).

SEVENTH CLAIM FOR RELIEF

Aiding and Abetting C&A's violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act (Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams)

107. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

108. C&A violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act as alleged in the Sixth Claim For Relief.

109. Pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)] whoever "knowingly provides substantial assistance" to another person in connection with a violation of the Exchange Act, or any regulation thereunder, is deemed to be "in violation of such provision to the same extent as the person to whom such assistance is provided."

110. As described in paragraphs 1-6, 20-48, and 70-71, Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams knowingly provided substantial assistance to C&A in connection with C&A's failure to maintain accurate books and records and C&A's failure to establish an adequate system of internal controls, and thereby violated Sections 13(b)(2)(A) and 13(b)(2)(B) to the same extent as C&A.

111. Unless restrained, defendants Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams will continue to aid and abet C&A's violations of these record-keeping and internal control provisions.

EIGHTH CLAIM FOR RELIEF

**Violations of Section 13(b)(5) of the Exchange Act
(Stockman, Stepp, Jones, Cosgrove, McCallum,
Barnaba, Gougherty, Galante, and Williams)**

112. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

113. Pursuant to Section 13(b)(5) of the Exchange Act, no person may knowingly circumvent or fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account maintained pursuant to Section 13(b)(2) of the Exchange Act.

114. As described in Paragraphs 1-6, 20-48, and 70-71, Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams knowingly circumvented C&A's internal accounting controls and knowingly falsified books, records, and accounts maintained by C&A pursuant to Section 13(b)(2) of the Exchange Act.

115. By reason of the foregoing, Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams violated Section 13(b)(5), and unless restrained will continue to violate this provision.

NINTH CLAIM FOR RELIEF

Violations of Exchange Act Rule 13b2-1 (Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams)

116. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

117. Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1] provides that no person shall directly or indirectly falsify any book, record, or account subject to Section 13(b)(2)(A) of the Exchange Act.

118. As described in paragraphs 1-6, 20-48, and 70-71, Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams falsified or caused the falsification of books, records, and accounts maintained by C&A and within the scope of Section 13(b)(2)(A) of the Exchange Act.

119. By reason of the foregoing, Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, Galante, and Williams violated Rule 13b2-1 and unless restrained will continue to violate that rule.

TENTH CLAIM FOR RELIEF

Violations of Exchange Act Rule 13b2-2 (Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, and Galante)

120. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

121. Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2] provides, *inter alia*, that no officer or director of an issuer, and no person acting under the direction of such officer or director, may directly or indirectly take any action to mislead an independent

public or certified public accountant engaged in an audit or review of the financial statements of that issuer if such statements are required to be filed with the Commission and the person knew or should have known that such action, if successful, could result in rendering the issuer's financial statements materially misleading.

122. As described in Paragraphs 1-6, 20-48, and 54-72, Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, and Galante took actions to mislead C&A's public accountants in the performance of audits and reviews of financial statements required to be filed by C&A with the Commission, and knew or should have known that such actions could result in rendering these financial statements materially misleading.

123. By reason of the foregoing, defendants Stockman, Stepp, Jones, Cosgrove, McCallum, Barnaba, Gougherty, and Galante violated Rule 13b2-2 and, unless restrained, will continue to violate that rule.

ELEVENTH CLAIM FOR RELIEF

Violation of Exchange Act Rule 13a-14 (Stockman and Stepp)

124. Paragraphs 1-72 are incorporated herein with the same force and effect as if set out in full.

125. Rule 13a-14 under the Exchange Act [17 C.F.R. § 240.13a-14] provides that each report filed with the Commission pursuant to Section 13(a) of the Exchange Act must include a certification, in a form identified by the Commission, signed by the principle executive officer and the principal financial officer of the issuer.

126. As described in Paragraph 50, Stockman signed such certifications as part of C&A's quarterly reports (Form 10-Q) for each quarter from the second quarter of 2003

through the third quarter of 2004, and as part of C&A's annual report (Form 10-K) for 2003. Stepp signed such certifications as part of C&A's quarterly reports for each quarter from the third quarter of 2002 through the second quarter of 2004, and as part of C&A's annual reports for 2002 and 2003. The certifications by Stockman and Stepp stated that C&A's financial statements and the other financial information in the report fairly presented C&A's financial condition, results of operations, and cash flows for the reporting periods. These certifications were false or misleading, and were known by Stockton and Stepp to be false or misleading.

127. By reason of the foregoing, Stockman and Stepp violated Rule 13a-14, and unless restrained will continue to violate that rule.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that the Court enter judgment:

(a) permanently enjoining C&A from violating Section 17(a) of the Securities Act, Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act, and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 under the Exchange Act;

(b) permanently enjoining Stockman and Stepp from violating Section 17(a) of the Securities Act, Sections 10(b) and 13(b)(5) of the Exchange Act, and Rules 10b-5, 13b2-1, 13b2-2 and 13a-14 under the Exchange Act, and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 under the Exchange Act; requiring each of them to disgorge his ill-gotten gains, with prejudgment interest; requiring each of them to pay civil penalties; and permanently barring each of them from acting as an officer or director of any issuer that has

a class of securities registered pursuant to Section 12 of the Exchange Act or is required to file reports pursuant to Section 15(d) of that Act;

(c) permanently enjoining Cosgrove from violating Section 17(a) of the Securities Act, Sections 10(b) and 13(b)(5) of the Exchange Act, and Rules 10b-5, 13b2-1 and 13b2-2 under the Exchange Act, and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 under the Exchange Act; requiring him to disgorge his ill-gotten gains, with prejudice interest; requiring him to pay civil penalties; and permanently barring him from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or is required to file reports pursuant to Section 15(d) of that Act;

(d) permanently enjoining Jones, Barnaba, and Gougherty from violating Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13b2-1, and 13b2-2 under the Exchange Act, and from aiding and abetting violations of Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 under the Exchange Act; requiring each of them to disgorge his ill-gotten gains, with prejudice interest; requiring each of them to pay civil penalties; and permanently barring each of them from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or is required to file reports pursuant to Section 15(d) of that Act;

(e) permanently enjoining Galante and McCallum from violating Sections 10(b) and 13(b)(5) of the Exchange Act, and Rules 10b-5, 13b2-1, and 13b2-2 under the Exchange Act, and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A), and

13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 under the Exchange Act; requiring each of them to disgorge his ill-gotten gains, with prejudgment interest; requiring each of them to pay civil penalties; and permanently barring each of them from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or is required to file reports pursuant to Section 15(d) of that Act;

(f) permanently enjoining Williams from violating Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5 and 13b2-1 under the Exchange Act, and from aiding and abetting violations of Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, and 13a-11 under the Exchange Act; requiring him to disgorge his ill-gotten gains, with prejudgment interest; requiring him to pay civil penalties; and permanently barring him from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or is required to file reports pursuant to Section 15(d) of that Act; and

(g) providing such other relief as may be appropriate.

Date: March 26, 2007

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