No. 14-986

In the Supreme Court of the United States

HARISH SHADADPURI, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether a "person" who is not the "importer of record" may be held liable for "enter[ing]" or "introduc[ing]" goods "into the commerce of the United States," in violation of 19 U.S.C. 1592(a)(1)(A).

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OPINIONS BELOW

The opinion of the en banc court of appeals (Pet. App. 1a-25a) is reported at 767 F.3d 1288. The vacated opinion of the three-judge panel of the court of appeals (Pet. App. 30a-60a) is reported at 724 F.3d 1330. The opinion of the United States Court of International Trade (Pet. App. 61a-74a) is reported at 781 F. Supp. 2d 1306.

JURISDICTION

The judgment of the court of appeals was entered on September 16, 2014. On December 4, 2014, the Chief Justice extended the time within which to file a petition for a writ of certiorari to and including February 13, 2015, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. Section 1592(a)(1)(A) of Title 19 of the United States Code provides that "no person by fraud, gross negligence, or negligence * * * may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the United States by means of," *inter alia*, any false statement or material omission. 19 U.S.C. 1592(a)(1)(A). Section 1592(a)(1)(B) provides that "no person * * * may aid or abet any other person to violate subparagraph (A)." 19 U.S.C. 1592(a)(1)(B). Section 1592(b) authorizes U.S. Customs and Border Protection (CBP) to enforce Section 1592(a) by seeking monetary penalties for violations. 19 U.S.C. 1592(b).

If CBP determines that a person has violated Section 1592(a), it may issue a penalty claim. 19 U.S.C. 1592(b)(2). If the person does not pay the penalty, the United States may file an action in the Court of International Trade (CIT) to recover the penalty, as well as any duties that were not paid as a result of the Section 1592(a) violation. 19 U.S.C. 1592(d) and (e); 28 U.S.C. 1582(a). In such an action, "all issues, including the amount of the penalty, shall be tried de novo." 19 U.S.C. 1592(e)(1).

2. In 2009, the United States filed a complaint in the CIT against petitioner and Trek Leather, Inc. (Trek), a corporation owned and operated by petitioner as its president and sole shareholder. Pet. App. 4a-5a. The complaint alleged that petitioner and Trek had violated Section 1592(a)(1)(A) by "enter[ing] or introduc[ing] or attempt[ing] to enter or introduce men's suits into the commerce of the United States" by means of false statements. *Ibid.* (quoting Compl. 2).

Petitioner had obtained from the manufacturers of the suits invoices that materially understated the value of the goods because they failed to reflect that petitioner had provided fabric for the suits free of charge. Pet. App. 6a, 9a. CBP had previously warned petitioner that such invoices improperly understated the value of the goods. *Id.* at 8a. Petitioner transmitted the invoices to a customs broker, which in turn drafted entry forms reflecting the understated values. *Ibid.* The entry forms, which were filed with CBP in order to accomplish the importation of the suits, listed Trek as the importer of record. *Ibid.* CBP subsequently calculated the underpayment of customs duties attributable to the invoices to be $133,605. *Id.* at 10a. The United States accordingly sought a judgment for the outstanding amount of unpaid duties owed, as well as the maximum allowable civil penalty for fraudulent, or, in the alternative, grossly negligent or negligent violations. *Id.* at 4a-5a.

The government moved for summary judgment. The CIT granted the motion in part, holding that petitioner and Trek had committed grossly negligent violations of Section 1592(a)(1)(A). Pet. App. 61a-72a. The court held that petitioner could be held liable even though he was not the importer of record, explaining that "[a]ny 'person' who engages in the behavior prohibited by 19 U.S.C. § 1592(a) is liable thereunder regardless of whether that 'person' is the importer of record or not." *Id.* at 68a-69a. "Trek conceded gross negligence" in the CIT. *Id.* at 68a. The court concluded that "Trek's admission of gross negligence directly implicates [petitioner]," since "[g]ross negligence requires knowledge of or wanton disregard for [the] offender's obligations," and peti-

tioner was "the sole shareholder of Trek and the only person who had knowledge of the statutory obligation." *Id.* at 69a.

3. A divided panel of the court of appeals reversed. Pet. App. 30a-60a. The majority held that only importers of record (and agents authorized in writing to act on their behalf) can be found liable under Section 1592(a)(1)(A) for entering or introducing merchandise into the United States by means of false statements. *Id.* at 31a-32a. The court relied primarily on 19 U.S.C. 1484, which provides that an importer of record is responsible for filing the required entry documents and for exercising reasonable care in preparing those documents. Pet. App. 42a-44a. Judge Dyk dissented. *Id.* at 54a-60a.

4. The court of appeals granted the government's petition for rehearing en banc and affirmed the CIT's judgment holding petitioner liable for violating Section 1592(a)(1)(A). Pet. App. 1a-25a, 26a-29a.

The court of appeals held that Section 1592(a)(1)(A)'s imposition of liability on any "person" who imports goods by means of false statements "plainly" covers both individuals and corporate entities, regardless of their status as importers of record. Pet. App. 15a. The court explained that, in *United States* v. *Mescall*, 215 U.S. 26 (1909), this Court had construed Section 1592's predecessor statute, which imposed liability on any "owner, importer, consignee, agent, *or other person*," Pet. App. 16a (citation omitted), to apply to persons other than those who "make entries" of goods, *ibid.* (citing *Mescall*, 215 U.S. at 31-32). The court of appeals therefore concluded that there was "no basis for giving 'person' in section

1592(a)(1) less than its ordinary broad meaning." *Id.* at 16a-17a.

The court of appeals then considered whether petitioner had committed acts proscribed by Section 1592(a)(1)(A)—*i.e.*, whether he had either "enter[ed]" or "introduce[d]" merchandise into the United States by means of false statements. Pet. App. 18a. The court found it unnecessary to decide whether petitioner had "enter[ed]" the merchandise, and it "therefore d[id] not address the relevance to that question of statutory limitations on what persons are authorized to 'enter' merchandise under 19 U.S.C. § 1484." *Ibid.* The court explained that Congress's use of the term "introduce" in Section 1592(a)(1)(A) "gives the statute a breadth that does not depend on resolving the issues that 'enter' raises." *Ibid.* The court concluded that the term "'introduce' readily covers the conduct of" petitioner. *Ibid.*

In reaching that conclusion, the court of appeals relied on this Court's decision in *United States* v. *Twenty-five Packages of Panama Hats*, 231 U.S. 358 (1913) (*Panama Hats*). The Court in *Panama Hats* had construed the term "introduce," as used in a pre-1909 predecessor to Section 1592, to cover acts that were taken in the course of importing goods into the United States and that preceded "any steps in entering or attempting to enter the goods." Pet. App. 20a (quoting 231 U.S. at 361); see *id.* at 18a. The court of appeals accordingly held that the term "introduce" "covers actions that bring goods to the threshold of the process of entry by moving goods into CBP custody in the United States and providing critical documents (such as invoices indicating value) for use

in the filing of papers for a contemplated release into United States commerce." *Id.* at 22a.

The court of appeals concluded that petitioner's conduct "comes within the commonsense, flexible understanding of the 'introduce' language of section 1592(a)(1)(A)." Pet. App. 22a. The court explained that petitioner had arranged to have the suits manufactured and shipped to Trek, had obtained invoices understating the value of the suits, had transferred those invoices to the customs broker to be used in preparing the entry forms, and had done "everything short of the final step of preparing the CBP Form 7501s [entry forms] and submitting them and other required papers to make formal entry." *Ibid.*; see *id.* at 7a-9a. The court also observed that the CIT had found both Trek and petitioner "liable for gross negligence," *id.* at 12a, and that the appeal "presented no issue about whether [petitioner] was grossly negligent," *id.* at 14a.

Finally, the court of appeals explained that "[a]pplying the statute to [petitioner] does not require any piercing of the corporate veil" because petitioner's liability was based on his "own acts" violating Section 1592(a)(1)(A). Pet. App. 22a-23a. The court explained that an agent who commits a tort is liable to the victim, "even though the agent was acting for the principal." *Id.* at 23a (citing 2 Restatement (Third) of Agency § 7.01, at 115 (2006) (Restatement)). The court emphasized that petitioner was liable because he had "personally commit[ted]" a violation of Section 1592(a)(1)(A), not because of his "officer or owner status in" Trek. *Ibid.*

ARGUMENT

Petitioner contends (Pet. 21-42) that his actions did not violate Section 1592(a)(1)(A) because he was not the importer of record and was acting in his capacity as a corporate officer of Trek. The court of appeals correctly rejected those arguments, and its decision does not conflict with any decision of this Court. Rather than expanding liability under Section 1592(a)(1)(A), as petitioner contends (Pet. 39-40), the court's decision is consistent with the longstanding judicial construction of Section 1592(a)(1)(A) and its predecessor statutes to reach conduct by persons other than importers of record, including individuals acting on behalf of corporate principals. The decision is also consistent with the established principle that corporate officers and employees may be held liable for their own statutory violations, even when they commit those violations in the course of performing their corporate duties. Further review is not warranted.

1. Section 1592(a)(1)(A) provides that "no person, by fraud, gross negligence, or negligence" may "enter [or] introduce * * * any merchandise into the commerce of the United States by means of" a false statement or material omission. 19 U.S.C. 1592(a)(1)(A). Petitioner contends (Pet. 25-34) that Section 1592(a)(1)(A) applies only to importers of record, and that petitioner cannot be held liable for violating Section 1592(a)(1)(A) because Trek was the importer of record for the goods at issue in this case. The court of appeals correctly rejected that argument.

a. Section 1592(a)(1)(A) imposes liability for penalties on any "person" who, acting with the requisite mental state, enters or introduces goods into United

States commerce by means of false statements or material omissions. As petitioner now concedes (Pet. 28), the term "person" encompasses any corporate entity or individual, not simply entities or individuals serving as the importer of record for a particular transaction. See 1 U.S.C. 1 (defining "person" to include "corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals"). The court of appeals therefore correctly held (Pet. App. 15a-16a) that petitioner is a "person" within the meaning of Section 1592(a)(1)(A).

Petitioner contends (Pet. 29) that, despite Section 1592(a)(1)(A)'s use of the capacious term "person," only "importers of record" are actually capable of "enter[ing]" merchandise into United States commerce. Petitioner relies (*ibid.*) on Section 1484, which states that an "importer of record" shall, using reasonable care, make "entry" of goods into United States commerce by filing the necessary documents with CBP. 19 U.S.C. 1484(a)(1) and (b)(2). In petitioner's view, Section 1484 establishes that "enter" is a term of art, and that only an importer of record can be held liable for "enter[ing]" goods under Section 1592(a)(1)(A).

Although Section 1484 establishes the responsibilities of "importer[s] of record," Section 1592(a)(1)(A)'s prohibition on fraudulent or negligent false entries of goods sweeps more broadly. Corporate importers of record necessarily act through the individual employees or officers who are tasked with filing the forms necessary to "enter" goods into the United States. See *United States* v. *Dotterweich*, 320 U.S. 277, 281 (1943) ("[T]he only way in which a corporation can act is through the individuals who act on its behalf."); Pet.

27. By using the term "person" in Section 1592(a)(1)(A), rather than the term "importer of record," Congress indicated that it did not intend to immunize individuals who, while acting for importers of record, themselves commit violations of Section 1592(a)(1)(A). Section 1592(a)(1)(A)'s imposition of liability on "person[s]" who enter goods by means of false statements is therefore naturally read to include an individual who, acting on behalf of a corporate importer of record, prepares or files an inaccurate customs form.

That interpretation is consistent with this Court's recognition that "[n]o intent to exculpate a corporate officer who violates the law is to be imputed to Congress without clear compulsion; else the fines established * * * to deter crime become mere license fees for illegitimate corporate business operations." *United States* v. *Wise*, 370 U.S. 405, 409 (1962). Accordingly, when a statute imposes liability on any "person" who violates its requirements, and an individual officer or employee engages in the proscribed conduct while acting in his corporate capacity, this Court has long recognized that either the corporation or the individual may be held liable.[1] See, *e.g.*, *ibid.* (holding

[1] Petitioner argues (Pet. 40) that, because Congress has imposed obligations on specified corporate officers in connection with corporate filings with the Securities and Exchange Commission (SEC), Congress would have expressly mentioned corporate officers in Section 1592(a) if it had intended to render them liable. See 18 U.S.C. 1350 ("chief executive officer and chief financial officer" must certify certain of the corporation's SEC filings). To the contrary, as this Court has recognized in the context of other statutes, Congress's use of the broader term "person" in Section 1592(a) demonstrates its intent to hold liable any "person"—

that corporate officer with "a responsible share in the proscribed transaction" was a "person" who could be held liable, together with the corporation, under Section 1 of the Sherman Act); *Dotterweich*, 320 U.S. at 281 (holding that a corporate officer acting on behalf of the corporation was a "person" within the meaning of the Federal Food, Drug, and Cosmetic Act).

For more than 40 years, moreover, the CIT has held that an individual acting on behalf of an importer of record may be held liable under Section 1592(a)(1)(A) if he prepares false documents to facilitate the importation of goods into the United States. See, *e.g.*, *United States* v. *Golden Ship Trading*, 22 C.I.T. 950, 953 (1998) (sustaining negligence cause of action against employee of corporate importer for misstating country of origin on entry documents, and holding that "[t]his Court has adjudicated many cases wherein one who is not the importer of record was held liable for penalties when the circumstances warranted"); see also, *e.g.*, *United States* v. *Matthews*, 31 C.I.T. 2075, 2082 (2007) (same); *United States* v. *Islip*, 22 C.I.T. 853, 867-868 (1998) (upholding complaint alleging that individual had participated in importer of record's false statements and had ordered employees to use false country-of-origin markings); *United States* v. *Appendagez, Inc.*, 5 C.I.T. 74, 79 (1983) (corporate officer could be held liable for participating in use of false invoices in preparing entry documents). Congress has not acted to alter that settled construction. See *John R. Sand & Gravel Co.* v. *United States*, 552 U.S. 130, 139 (2008).

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including both corporations and individuals acting on their behalf. See *Wise*, 370 U.S. at 409.

Congress's purpose of deterring and penalizing violations of import rules would be undermined if individuals acting on behalf of importers of record could not be held liable under Section 1592(a)(1)(A). "[T]hose directly responsible for a violation of the customs laws" would be able to avoid liability by "alter[ing] the nature of the corporation[,] by dissolving the corporation or selling the assets or shares of the corporation." *United States* v. *Priority Prods., Inc.*, 793 F.2d 296, 299-300 (Fed. Cir. 1986). Nothing in the statute's text suggests that Congress intended to allow that result.

Construing Section 1592(a)(1)(A) to reach individuals who prepare false documents while acting on behalf of importers of record is also consistent with the well-established common-law principle that an agent, including a corporate employee, may be held personally liable for any torts that he commits while acting on behalf of a principal. See, *e.g.*, Restatement § 7.01 & cmt. (b), at 115-116 (agent is liable to those injured by his tortious conduct, because that conduct causes a "wrong to the tort's victim independently of the capacity in which the agent committed the tort"); *LoPresti* v. *Terwilliger*, 126 F.3d 34, 42 (2d Cir. 1997) (It "has long been established, . . . , that a corporate officer who commits or participates in a tort, even if it is in the course of his duties on behalf of the corporation, may be held individually liable."); *DFS Secured Healthcare Receivables Trust* v. *Caregivers Great Lakes, Inc.*, 384 F.3d 338, 346-347 (7th Cir. 2004). Petitioner correctly points out (Pet. 26-27) that, for purposes of determining Trek's liability, the acts that petitioner performed on behalf of Trek are imputed to the corporation. That rule of vicarious liability, how-

ever, does not mean that the relevant conduct ceases to be petitioner's own.

Contrary to petitioner's argument (Pet. 30, 37-38), there is no need to pierce the corporate veil in order to hold petitioner liable for violating Section 1592(a)(1)(A). Because petitioner is a "person" who prepared false documents to facilitate the importation of merchandise into United States commerce, he is being held liable for his own conduct, not for his status as a corporate officer.[2] See Restatement § 7.01 cmt. (d), at 120-121 ("Holding a position as an officer or director of a corporation or other organization does not insulate a person from liability for the person's own tortious conduct. * * * [I]t is not necessary to 'pierce the corporate veil' or 'disregard the corporation's existence as a separate legal entity.'"); see also, *e.g.*, *Electrical Workers Pension Trust Fund of Local Union No. 58* v. *Gary's Elec. Serv. Co.*, 340 F.3d 373, 386 (6th Cir. 2003) (piercing the veil is unnecessary when officer's own conduct is the basis for liability); *Walker* v. *Federal Deposit Ins. Corp.*, 970 F.2d 114, 122 (5th Cir. 1992) (same).

Here, petitioner falsely "enter[ed]" goods into United States commerce. 19 U.S.C. 1592(a)(1)(A). Acting on Trek's behalf, petitioner procured invoices

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[2] The decisions on which petitioner relies (Pet. 37) are therefore inapposite, as they concerned situations in which a plaintiff sought to pierce the corporate veil in order to hold a corporate officer liable, by virtue of his status as an officer, for the corporation's debts. See *Richard A. Pulaski Constr. Co.* v. *Air Frame Hangars, Inc.*, 950 A.2d 868, 877-878 (N.J. 2008) (attempt to hold officer liable for judgment against corporation arising out of a contract claim against the corporation); *Morris* v. *New York State Dep't of Taxation & Fin.*, 623 N.E.2d 1157, 1161 (N.Y. 1993) (attempt to hold officer liable for corporation's unpaid taxes).

that understated the value of the imported goods and directed the customs broker that he had hired to prepare the required entry forms using the false values stated on the invoices. Pet. App. 2a-3a, 8a-9a. Petitioner also designated Trek to serve as the importer of record. *Id.* at 7a-8a. Petitioner therefore violated Section 1592(a)(1)(A).

In holding that petitioner was subject to the penalties that apply to grossly negligent violations, the CIT correctly held that petitioner himself had acted with that mental state. See Pet. App. 68a-69a. Although Trek had conceded that the corporation had acted with gross negligence, see *id.* at 68a, the court did not suggest that the same level of culpability could be imputed to petitioner based solely on his status as a corporate officer. Rather, the court explained that petitioner "had the responsibility and obligation to examine all appropriate documents * * * within the entry documentation," and that petitioner was "the only person [within the corporation] who had knowledge of the statutory obligation" to include the cost of fabric provided to the manufacturers in the value of the imported goods. *Id.* at 69a. Thus, just as the en banc court's holding that petitioner had "introduce[d]" goods was based on petitioner's own conduct, the determination that petitioner was grossly negligent was based on petitioner's deficient performance of his own responsibilities.

b. Based on Section 1484's provision that importers of record are responsible for filing entry documents, petitioner argues (Pet. 29) that only importers of record can be held liable under Section 1592(a)(1)(A) for "enter[ing]" merchandise into United States commerce. The court of appeals correctly held

that, whether or not petitioner's narrow construction of the term "enter" is correct, petitioner is liable under Section 1592(a)(1)(A) for "introduc[ing]" merchandise into commerce by means of false statements. Pet. App. 18a. Section 1484 does not refer to "introduc[ing]" merchandise, and petitioner identifies no other textual basis for concluding that introduction of goods is a task that can be performed only by importers of record.

In the context of a substantially similar provision in Section 1592(a)'s predecessor statute, this Court construed the term "introduce" to include conduct by persons who are not themselves importers of record but who make false statements in the course of directing merchandise into United States commerce. See *United States* v. *Twenty-five Packages of Panama Hats*, 231 U.S. 358, 361-362 (1913). In *Panama Hats*, the Court considered Section 28 of the Tariff Act of 1909, which prohibited "enter[ing] or introduc[ing], or attempt[ing] to enter or introduce, into the commerce of the United States, any imported merchandise by means of any fraudulent or false invoice." Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 97. The Court explained that the term "introduce" had been added to the statute in order to reach wrongful conduct, including falsifying the value of goods on invoices that were to be submitted to the Customs Service, that "preceded the making of the documents or taking any of the steps necessary to enter the goods." 231 U.S. at 360. "Introduc[ing]" goods by means of a false statement therefore "necessarily included more than an attempt to enter, otherwise the amendment was inoperative against the consignor against whom it was specially aimed, for he does not, as such, make the declaration,

sign the documents, or take any steps in entering or attempting to enter the goods." *Id.* at 361. The Court accordingly held that an entity that produced false invoices for goods that were to be imported into the United States—but that did not serve as the importer of record—had "introduce[d]" merchandise into the United States by means of false statements. *Id.* at 361-362.

By engaging in conduct virtually identical to that at issue in *Panama Hats*, petitioner "introduce[d]" merchandise into United States commerce by means of grossly negligent false statements.[3] Petitioner "furnished to the hired customs broker, for use in completing and submitting the entry documents required for clearance through [CBP], commercial invoices that materially understated the value of the merchandise." Pet. App. 2a-3a. In addition, petitioner "transferred ownership of [the] merchandise, while it was in transit to the United States, to a company he chose to be the importer of record for its entry into United States commerce." *Id.* at 2a, 22a. The court below correctly held that those actions amounted to introducing merchandise into the commerce of the United States. *Id.* at 3a, 22a.

For the reasons stated above, the fact that petitioner was acting on behalf of Trek when he introduced merchandise into commerce by means of false statements does not shield him from liability. See pp.

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[3] Petitioner argues that the "'introduce' theory was not advanced by the government" in the court of appeals. Pet. 22. As the en banc court explained, however, the government argued in the CIT that "Trek and [petitioner] entered, introduced, or attempted to enter or introduce merchandise into the United States." Pet. App. 10a (citation omitted).

9-12, *supra*. Because petitioner through his own grossly negligent conduct effected the wrongful introduction of goods in violation of Section 1592(a)(1)(A), he can be held liable for that conduct, without any need to pierce the corporate veil.

2. Petitioner contends (Pet. 33-37) that construing Section 1592(a)(1)(A) to impose penalties on persons other than importers of record, including those who use false statements to introduce merchandise into commerce, would render superfluous Section 1592(a)(1)(B), which prohibits aiding and abetting violations of Section 1592(a)(1)(A). Petitioner is incorrect.

To violate Section 1592(a)(1)(A), a person must enter or introduce merchandise into United States commerce "by means of" a false statement or material omission. 19 U.S.C. 1592(a)(1)(A). By contrast, Section 1592(a)(1)(B) prohibits aiding and abetting a violation of Section 1592(a)(1)(A) by any means. An individual therefore may be subject to aiding-and-abetting liability, even if he does not personally make a false statement or omit material information in statements to CBP, so long as he performs acts that facilitate another person's use of false statements or omissions to enter or introduce goods into commerce. For instance, a person may aid and abet a violation of Section 1592(a)(1)(A) by financing or facilitating a fraudulent scheme. See, *e.g.*, *United States* v. *Valley Steel Prods. Co.*, 15 C.I.T. 268, 270 (1991) (Valley allegedly aided and abetted violation by "designing and implementing the plan which enabled its suppliers to submit" false documents, including by "agreeing to accept and then pay the amounts stated on the falsely

inflated invoices provided by its suppliers.") (citation omitted).

Petitioner's reliance (Pet. 34-36) on the legislative history of the aiding-and-abetting provision is unavailing. An unenacted version of Section 1592(a) contained a single paragraph that imposed liability on any person who entered, introduced, or "aid[ed] or procure[d] the entry or introduction of any merchandise" by means of a false statement. Pet. 35-36 (quoting S. Rep. No. 778, 95th Cong., 2d Sess. 55 (1978)). Congress ultimately enacted a separate subparagraph—Section 1592(a)(1)(B)—that imposed liability on any person who aids and abets "any other person to violate subparagraph (A)." 19 U.S.C. 1592(a)(1)(B). The legislative history indicates that Congress made that change because it was concerned that the original language could impose liability on "innocent parties who are somehow involved in the entry" but do not intend to aid the fraudulent scheme. H.R. Conf. Rep. No. 1517, 95th Cong., 2d Sess. 11-12 (1978). Congress's creation of a separate aiding-and-abetting subparagraph sheds no light on Congress's understanding of the universe of persons who may commit a primary violation under Section 1592(a)(1)(A)—much less suggest that Congress viewed importers of record as the only persons who may be held liable as principals under the statute.

3. Contrary to petitioner's argument (Pet. 38-41), the en banc court of appeals' decision does not upset settled expectations. Rather, that decision simply restores the status quo that existed until the panel ruled in this case. The CIT has repeatedly imposed liability under Section 1592(a)(1)(A) on individuals who negligently or fraudulently prepared false entry

documents while acting on behalf of corporate importers of record. See p. 10, *supra*; *Golden Ship Trading*, 22 C.I.T. at 953. There is consequently no merit to petitioner's assertion (Pet. 39) that the court of appeals' decision will "greatly expand" liability.[4] Further review is not warranted.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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[4] Petitioner observes (Pet. 39) that the CBP has recently proposed expanding the information (including information about corporate officers) that it collects from importers. See 79 Fed. Reg. 61,092 (Oct. 9, 2014). That proposal, which is designed to aid CBP in assessing the risk that an importer will violate U.S. law, see *ibid.*, is irrelevant to this case and is well within the agency's authority to regulate collection of import duties. See 19 U.S.C. 3 ("The Secretary of the Treasury shall direct the superintendence of the collection of the duties on imports as he shall judge best.").