

HQ 116220

June 21, 2004

BRO-3-RR:IT:EC 116220 IDL

CATEGORY: Brokers

Anne C. Greiner, LCB Import Customs Compliance Officer Ross Stores, Inc.

1000 Retail Drive Fort Mill, SC 29715

Re: Customs Business; Corporate Compliance Activity; 19 CFR 111.1

Dear Ms. Greiner:

This is in response to your request for ruling, dated April 26, 2004, concerning performance of customs business by parent and subsidiary corporations.

FACTS:

Ross Stores, Inc. ("Ross Stores") is considering restructuring its subsidiaries so that all import shipments would be entered by "Ross Merchandising Company", a wholly-owned subsidiary of Ross Stores.

Employees of another wholly-owned subsidiary, "Ross Dress for Less", would be in charge of the corporate compliance activities, as defined in the CBP Regulations (U.S. Customs and Border Protection), on behalf of itself, Ross Stores, and Ross Merchandising Company. These functions would include providing classification and valuation information to the related companies, along with any other input and advice as necessary. "Ross Dress for Less" would also provide information to the customs broker for the filing of entries, respond to CF-28 Requests for Information, CF-29 Notices of Action, compliance audits or assessments, and submit Post Entry Amendments and Supplementary Information Letters.

ISSUE:

Whether the scope of "corporate compliance activity", as it relates to the performance of customs business by related business entities, allows Ross Dress For Less to engage in the activities described above? **LAW AND ANALYSIS:**

On August 11, 2003, CBP published in the Federal Register (68 FR 47455, CBP Dec. 03-15) a final rule, which provided that corporate compliance activity engaged in by related business entities for the purpose of exercising "reasonable care" is not "customs business", and therefore, is not subject to the customs broker licensing requirements, under 19 CFR 111.1.

However, section 111.1 excludes actual preparation or filing of CBP documents from the domain of corporate compliance activity:

'Corporate compliance activity' means activity performed by a business entity to ensure that documents for a related business entity or entities are prepared and filed with Customs using "reasonable care", but

such activity does not extend to the actual preparation or filing of the documents or their electronic equivalents. For purposes of this definition, a "business entity" is an entity that is registered or otherwise on record with an appropriate governmental authority for business licensing, taxation, or other legal purposes, and the term "related business entity or entities" encompasses a business entity that has more than a 50 percent ownership interest in another business entity, a business entity in which another business entity has more than a 50 percent ownership interest, and two or more business entities in which the same business entity has more than a 50 percent ownership interest.

19 CFR 111.1 (2003).

Section 111.1 makes clear that documentation preparation and filing is "customs business" subject to the provisions of that section. The amended regulations prohibit an entity from undertaking those activities on behalf of a related entity, as those terms are defined in section 111.1. That same entity could, however, provide a broker with information to be incorporated in the documents to be filed with CBP, whether that information is relayed orally or in writing. Related entities not meeting the ownership threshold, as prescribed by section 111.1, may not assist one another in this manner.

Since Ross Merchandise Company and Ross Dress For Less are wholly-owned subsidiaries of Ross Stores, these three companies are related business entities for purposes of section 111.1. With respect to the specific activities in question, the following are permitted corporate compliance activities: providing classification and valuation information to the related companies, along with any other input and advice as necessary; and providing information to a customs broker for the filing of entries. The remainder of the activities listed for our consideration are not so permitted. (See CBP Dec. 03-15, 68 FR 47455, 47457).

HOLDING:

The scope of "corporate compliance activity", as it relates to the performance of customs business by related business entities, allows Ross Dress For Less to engage in those activities to the extent described above.

Sincerely,

Glen E. Vereb Chief Entry Procedures and Carriers Branch