



## **PUBLIC VERSION**

May 10, 2021

### **EAPA Cons Case Number 7586**

Luke A. Meisner, Esq.  
*Counsels to Cambria Company LLC*  
Schagrin Associates  
900 Seventh Street, N.W.  
Suite 500  
Washington, DC 20001  
[lmeisner@schagrinassociates.com](mailto:lmeisner@schagrinassociates.com)

Sanjay Khanna, Owner  
Vivaldi Commercial LLC (dba Superior Granite and Marble by V) and Vivaldi  
Interiors LLC  
13040 Hempstead Road  
Houston, TX 77040-6510  
[info@vivaldi-group.com](mailto:info@vivaldi-group.com)

**RE:** Notice of initiation of investigation and interim measures taken as to Vivaldi Commercial LLC (dba Superior Granite and Marble by V) and Vivaldi Interiors LLC concerning evasion of the antidumping and countervailing duty orders on Quartz Surface Products from the People’s Republic of China

---

To the Counsel and Representatives of the above-referenced Entities:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (“EAPA”). Specifically, CBP is investigating whether Vivaldi Commercial LLC and Vivaldi Interiors LLC (collectively “Vivaldi”)<sup>1</sup> has evaded the antidumping (“AD”) and countervailing (“CVD”) duty orders A-570-084 and C-570-085 on quartz surface products (“QSP”) from the People’s Republic of China (“China”)<sup>2</sup> when importing QSP into the United States. CBP found that the evidence on the record establishes a reasonable suspicion that the importer has entered merchandise into the United States through evasion, and as a result, has imposed interim measures.

### **Period of Investigation**

---

<sup>1</sup> Tax documents provided in the allegation show both companies registered at the same physical address in Houston, Texas to owners with the same surname.

<sup>2</sup> See *Certain Quartz Surface Products From the People's Republic of China: Antidumping and Countervailing Duty Orders*, 84 Fed. Reg. 33053 (Dep’t Commerce July 11, 2019), (*AD/CVD Orders*).

Pursuant to 19 CFR 165.2, entries covered by an EAPA investigation are those “entries of allegedly covered merchandise made within one year prior to the receipt of an allegation ....” Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption of merchandise in the customs territory of the United States.”<sup>3</sup> On December 3, 2020, Cambria Company LLC (“Cambria”), a domestic producer of QSP, filed an EAPA allegation through its counsel.<sup>4</sup> CBP acknowledged receipt of the properly filed allegation against Vivaldi Commercial LLC and Vivaldi Interiors LLC on January 7, 2021.<sup>5</sup> In addition, and at its discretion, CBP may investigate other entries of such covered merchandise.<sup>6</sup>

## Initiation

On February 1, 2021, the Trade Remedy Law Enforcement Directorate (“TRLED”) within the CBP Office of Trade initiated an investigation under EAPA as the result of the allegations submitted by Cambria, the alleger, as to evasion of AD/CVD duties by Vivaldi.<sup>7</sup> Further, EAPA investigations 7586 (Vivaldi Commercial) and 7587 (Vivaldi Interiors) were consolidated at initiation at CBP’s discretion into a single investigation.<sup>8</sup> Cambria alleges that information available to the company reasonably suggests Vivaldi evaded the *AD* and *CVD Orders* through the misclassification of Chinese-origin quartz surface products as crushed glass.<sup>9</sup>

On July 11, 2019, The Department of Commerce (“Commerce”) published the Orders on QSP from China.<sup>10</sup> The scope of the order covered:

...certain quartz surface products.<sup>11</sup> Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (e.g., quartz, quartz powder, cristobalite) as well as a resin binder (e.g., an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the orders. However, the scope of the orders only includes products where the silica content is greater than any other single material, by actual weight. Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of the orders includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of the orders includes, but is not limited to, other surfaces

---

<sup>3</sup> See 19 CFR 165.1.

<sup>4</sup> See Letter from the Alleger, “Quartz Surface Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act of Vivaldi Commercial LLC,” dated December 3, 2020 (Vivaldi Commercial Allegation).

<sup>5</sup> See “Receipt Notification Email to Luke A. Meisner of Schagrin Associates for EAPA 7586 and 7587,” dated January 07, 2021.

<sup>6</sup> See Memorandum to Brian Hoxie, Director, Enforcement Operations Division, “Initiation of Investigations for EAPA Allegations 7586 and 7587 - Vivaldi Commercial LLC and Vivaldi Interiors LLC.,” dated February 1, 2021 (Initiation).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 6.

<sup>9</sup> See Allegation.

<sup>10</sup> See AD/CVD Orders, 84 Fed. Reg. 33053 (Dep’t Commerce July 11, 2019).

<sup>11</sup> Quartz surface products may also generally be referred to as engineered stone or quartz, artificial stone or quartz, agglomerated stone or quartz, synthetic stone or quartz, processed stone or quartz, manufactured stone or quartz, and Bretonstone®.

such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fireplace surrounds, mantels, and tiles. Certain quartz surface products are covered by the orders whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish.

The scope of the orders does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of the orders are crushed glass surface products. Crushed glass surface products must meet each of the following criteria to qualify for this exclusion: (1) The crushed glass content is greater than any other single material, by actual weight; (2) there are pieces of crushed glass visible across the surface of the product; (3) at least some of the individual pieces of crushed glass that are visible across the surface are larger than one centimeter wide as measured at their widest cross-section (glass pieces); and (4) the distance between any single glass piece and the closest separate glass piece does not exceed three inches.<sup>12</sup>

The allegation asserts that Vivaldi imported misclassified quartz surface products manufactured by Xiamen Sunrise Stone Company, Ltd. (“Xiamen Sunrise”) in China.<sup>13</sup> Specifically, the trade data<sup>14</sup> in the allegation shows that Vivaldi’s numerous imports of crush glass labeled “ECO Glass” were not crushed glass surface products excluded from the scope of the AD/CVD orders,<sup>15</sup> but were historically<sup>16</sup> misclassified Chinese origin QSP. Further, Vivaldi’s website fails to promote ECO Glass as a product offering to its customers. The allegation claims that Vivaldi advertises “granite, limestone, marble, onyx, porcelain, quartzite, Silestone (a particular brand of QSP)” in addition to other substances, despite classifying its imports as such.<sup>17</sup>

Further, according to Xiamen Sunrise’s website, the manufacturer produces QSP countertops,<sup>18</sup> not crushed glass nor “Eco Glass” products.<sup>19</sup> Social media postings from the company; however, outlined a scheme to sell a new ‘Glass’ product that would evade AD/CVD duties.”<sup>20</sup> While several Facebook “scheme” shots were provided by Cambria in the allegation,<sup>21</sup> two notable submissions include:

- June 25, 2019, “Quartz cut to size countertop for *Houston* project. Take care all everything on inspection. Anti-dumping is bad. But customers need to make money, need

---

<sup>12</sup> See AD/CVD Orders, 84 Fed. Reg. 33053 (Dep’t Commerce July 11, 2019).

<sup>13</sup> See Allegation at 4.

<sup>14</sup> *Id.* at 7-8.

<sup>15</sup> See AD/CVD orders, “Specifically excluded from the scope of the {AD/CVD} orders are crushed glass surface products. Crushed glass surface products must meet each of the following criteria to qualify for this exclusion: (1) The crushed glass content is greater than any other single material, by actual weight; (2) there are pieces of crushed glass visible across the surface of the product; (3) at least some of the individual pieces of crushed glass that are visible across the surface are larger than one centimeter wide as measured at their widest cross-section (glass pieces); and (4) the distance between any single glass piece and the closest separate glass piece does not exceed three inches.”

<sup>16</sup> See Initiation at 2.

<sup>17</sup> See Vivaldi Commercial Allegation at 8 and Exh. 4; Vivaldi Interiors Allegation at 8 and Exh. 4.

<sup>18</sup> See Vivaldi Commercial Allegation at 8; Vivaldi Interiors Allegation at 8.

<sup>19</sup> *Id.* at Exh. 8.

<sup>20</sup> *Id.* at 8-10 and Exh. 10.

<sup>21</sup> See Initiation at 2-3.

to get project, need to live. So, we need to find a way to solve this problem” (emphasis added), and

- June 30, 2019, “Another 2 containers of cut to size quartz countertop for *Houston* project, inspecting, ready for shipping next week, anti-dumping? Quartz anti-dumping not for us, our quartz no anti-dumping” (emphasis added).”<sup>22</sup>

Imports of ECO Glass from Xiamen Sunrise for Vivaldi paralleled the same time as the social media plan to evade AD/CVD orders unfolded.<sup>23</sup> Xiamen Sunrise’s initial shipment of Eco Glass products arrived in the United States on June 11, 2019<sup>24</sup> in anticipation of the July 2019 AD/CVD orders.<sup>25</sup> Vivaldi prior to June 2019, entered almost exclusively stone products and no glass.<sup>26</sup> Notably, Vivaldi received their first shipments of Eco Glass several weeks later, highlighting the fact that prior to AD and CVD orders, they did not import any ECO Glass.<sup>27</sup>

Lastly, the allegation furnished an affidavit from a witness who [ ]<sup>28</sup> that [

] The [

[ ]<sup>29</sup> Consequently, the products [ ] and captured on Vivaldi’s website do not support the claim that its imports are of crushed glass fall outside the scope of the AD/CVD orders and do not qualify for the order’s exceptions.

### **Initiation Assessment**

TRLED will initiate an investigation if it determines that “{t}he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion.” Evasion is defined as “the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.”

Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD order was entered into the United States by the importer alleged to be evading, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security. In assessing the claims made and evidence provided in the allegation, TRLED found that the allegation reasonably suggests that Vivaldi has engaged in attempts to evade the AD and CVD

---

<sup>22</sup> *Id.* at 9, Exh. 10.

<sup>23</sup> *Id.* at Exh. 3.

<sup>24</sup> *See* Allegation at 10.

<sup>25</sup> *See* AD/CVD Orders, 84 Fed. Reg. 33053 (Dep’t Commerce July 11, 2019).

<sup>26</sup> *See* Allegation at 10.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 10-11 and Exh. 12.

<sup>29</sup> *Id.*

Orders by misclassifying QSP as crushed glass surface products into the United States and failing to declare the merchandise as subject to the AD and CVD Orders. Consequently, TRLED initiated investigations pursuant to 19 USC 1517 (b)(1) and 19 CFR 165.15.

## Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, TRLED will decide based on the record of the investigation if there is reasonable suspicion that merchandise covered by the AD and CVD Orders was entered into the United States through evasion. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures because there is reasonable suspicion that Vivaldi entered covered merchandise into the customs territory of the United States through evasion by means of misclassification QSP as crushed glass surface products.

### *CF-28 Responses and Analysis*

As an investigative measure, CBP issued a Customs Form 28, Request for Information (“CF 28”) on February 24, 2021 for Vivaldi entry [ ]1966.<sup>30</sup> The entry was declared as type “01,” not subject to any AD/CVD duties with the HTS classification 7016.90.1050. CBP requested entry transaction documentation such as commercial invoice, proof of payment, and purchase order; descriptive literature, and other pertinent product information; detailed answers regarding the composition of the merchandise; and a series of questions to determine the applicability of the AD and CVD Orders. In the documents CBP received on March 1, 2021, [ ] claimed to import “ECO Glass” countertops described as “slabs of crushed glass slabs.”<sup>31</sup> As the author of the CF 28 response, no exact knowledge of the manufacturing process was declared, but ECO Glass was described as “primarily used as countertops / wall covering / flooring.”<sup>32</sup>

Vivaldi further reported that samples consistent to the composition of ECO Glass were previously sent to CBP on December 12, 2018, for which it received an e-ruling (N302271) classifying the merchandise under 7020.00.6000.<sup>33</sup> This information was offered to explain ECO Glass’ exclusion from the AD/CVD orders.<sup>34</sup> While CBP made a specific ruling on the samples provided in 2018, it was determined that sampling was necessary for more recent shipments of ECO Glass. Consequently, Vivaldi furnished a sample of the merchandise with the [ ]<sup>35</sup> designation. CBP forwarded the sample to the laboratory for analysis; while the lab report results are pending for this sample, CBP has been able to test samples from a recent shipment, as described below, to support this initiation.

---

<sup>30</sup> See CF 28 Request for Information for Entry [ ]1966, dated February 24, 2021 (“CF 28 Request xxx1966”).

<sup>31</sup> See CF 28 Response for Entry [ ]1966 Attachment A, B, C and Continuation Page # 14, dated March 1, 2021 (“CF 28 Response xxx1966”).

<sup>32</sup> *Id* at Continuation Page # 14 at 1.

<sup>33</sup> See CF 28 Response at N302271.

<sup>34</sup> CBF determined that the samples from 2018 should stand on its own regarding classification, and it was recommended that Lab sample analysis for current shipments be completed.

<sup>35</sup> See CF 28 Response xxx1966 at Continuation Page # 14 at 1.

CBP requested an additional CF 28 for entry [ ]7676 on February 18, 2021.<sup>36</sup> Vivaldi's responses were received on April 12, 2021,<sup>37</sup> over two (2) weeks beyond its due date. Vivaldi failed to request an extension. Vivaldi also used the entry type "01" designation for this entry of ECO Glass countertops classified under 7016.90.1050.<sup>38</sup> This response was also inclusive of the e-ruling from CBP used by Vivaldi to justify the exclusion of this ECO Glass from the order. Again, it was noted that the ruling was issued on February 16, 2021 for samples sent to CBP on 12/12/2018.<sup>39</sup>

CBP requested the importer to provide all entry documents, all pertinent product information in addition to justification for why the entry is not subject to the AD and CVD orders. Aspects of Vivaldi's response were the same information provided in [ ]1966.<sup>40</sup> Again the owner claimed no knowledge of the manufacturing process for ECO Glass, but was clear about its intended usage. The merchandise also had the [ ] designation, which [

]41

Both entries describe the material composition of "ECO Glass" as approximately [ ]. The [ ]42

#### *Cargo Examinations/Laboratory Sample Analysis*

CBP initiated a series of cargo examinations and laboratory analyses to further investigate Vivaldi's alleged evasion scheme. On March 22, 2021, CBP examined and photographed cargo described as "ECO Glass Countertop" for Vivaldi's entry [ ]0142.<sup>43</sup> The entry type "01" was also claimed by Vivaldi to declare this entry of ECO Glass countertops; however, it was classified under 6802.93.0090 on CBP entry forms. Additionally, the bill of lading showed discrepancies on it. The HTS classification was labeled as, 7016.90.1050, for the same shipment.<sup>44</sup> The commercial invoice had a special project identifier, [ ].<sup>45</sup> The project identifier "Marcos" was also used for entry [ ]1927 of ECO Glass counter tops which was not sampled.<sup>46</sup>

Further, on April 13, 2021, sampling from the shipment mentioned above was completed by CBP.<sup>47</sup> The laboratory results of [ ] reported that the sample "ECO Glass Slab"

---

<sup>36</sup> See CF 28 Request for Information for Entry [ ]7676, dated February 18, 2021 ("CF 28 Request xxx7676").

<sup>37</sup> See CF 28 Response for Entry [ ]7676, Attachment A, B, C and RFI Continuation Page # 14 dated April 12, 2021 ("CF 28 Response xxx7676").

<sup>38</sup> See CF 28 Response xxx7676 at Attachment A at 6-9.

<sup>39</sup> See CF 28 Response at N302271.

<sup>40</sup> See CF 28 Response xxx1966.

<sup>41</sup> See CF 28 Response xxx7666 at RFI Continuation Page # 14 at 1-2.

<sup>42</sup> See CF 28 Response xxx1966 at Continuation Page # 14 at 2 and CF 28 Response xxx7666 at RFI Continuation Page # 14 at 2.

<sup>43</sup> See CF 28 Response xxx7666 at RFI Continuation Page # 14 at 1-2.

<sup>44</sup> See Cargo Exam and Cargo Exam Photos for [ ]0142, dated March 22, 2021 ("Cargo Exam xxx0142").

<sup>45</sup> The project identifier "Marcos" was also used for entry [ ]1927 of ECO Glass counter tops which was not sampled.

<sup>46</sup> See Cargo Exam [ ]1927, dated March 18, 2021 ("Cargo Exam xxx1927").

<sup>47</sup> See Laboratory Report [ ], dated April 13, 2021 ("Lab Report").

consisted of a cut piece [ ] of polished face white slab with clear specks with an approximate thickness of [ ].<sup>48</sup> Professional analysis and informed inspection described the sample as an artificial stone with approximately [ ], [ ], and [ ]. The sample further reported that it contained pieces of [ ] visible across the surface and [ ] pieces measured [ ] than [ ] centimeter.<sup>49</sup>

CBP's laboratory analysis of Vivaldi's entry concluded that the crushed glass content [ ] by weight. Pieces of crushed glass [ ] visible across the surface of the slab [ ] visible. [ ] of the individual pieces were of crushed glass. [ ] visible across the surface of the slab sample, but it was not larger than one centimeter wide. Vivaldi's sample [ ] the final exclusion criteria. Moreover, the distance between any single glass piece and the closest separate glass piece [ ] three inches. Consequently, it was concluded that ECO Glass sample [ ].<sup>50</sup>

Additionally, sampling of entry [ ]7519 for "Pure White Slab Granite" with stated components of "Granite Counter Top" was completed on May 04, 2021.<sup>51</sup> The sample consisted of a large white piece of polished stone measuring [ ] in length, [ ] in width, and [ ] in thickness.<sup>52</sup> The composition of the sample was [ ], [ ], and [ ]. As with the previous result, this sample [ ] the final exclusion criteria.<sup>53</sup> There was [ ] crushed glass content by actual weight [ ] were there visible pieces of crushed glass. Specifically, with [ ] visible glass evident on the surface of the sample, the distance between any single glass piece and the closest separate glass piece [ ] exceed three inches. As a result, the Pure White Slab Granite sample [ ].<sup>54</sup> The submitted sample was [ ].<sup>55</sup>

### **Consolidation of the Investigations:**

TRLED consolidated EAPA investigations 7586 (Vivaldi Commercial) and 7587 (Vivaldi Interiors) into a single investigation. At its discretion, CBP may consolidate multiple allegations against one or more importers into a single investigation. Pursuant to 19 CFR 165.13(b), CBP may consolidate multiple, related allegations. In making this decision, CBP will consider: 1) relationships between the importers; 2) similarity of covered merchandise; 3) similarity of AD/CVD orders; and 4) overlap in time periods of entries of covered merchandise.

Here, the Importers have similar names, their owners have the same surname, and they share a common address. In addition, the merchandise at issue in each allegation is QSP which is subject to the same AD/CVD orders (A-570-084 and C-570-085). Finally, the entries fall within a common period of investigation.

---

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> See Laboratory Report Memo to the File, dated April 16, 2021 ("Lab Report Memo").

<sup>51</sup> See Laboratory Report [ ], dated May 04, 2021 ("Lab Report").

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> See Laboratory Report Memo to the File, dated May 10, 2021 ("Memo Lab Report").

<sup>55</sup> *Id.*

As such, factors warranting consolidation are present in these investigations, and CBP has consolidated these investigations and will provide notice pursuant to 19 CFR 165.13(c). We note that the deadlines for the consolidated investigation were set from the date of initiation for both of the allegations, which was February 1, 2021. The new consolidated case number is EAPA Consolidated Case 7586, and a single administrative record will be maintained accordingly.

### **Enactment of Interim Measures**

Because of the reasons stated above, TRLED finds that there is reasonable suspicion Vivaldi Commercial LLC (dba Superior Granite and Marble by V) and Vivaldi Interiors LLC entered covered merchandise into the customs territory of the United States through evasion by means of misclassification of QSP as crushed glass surface products. Therefore, CBP is imposing interim measures pursuant to this investigation. Specifically, in accordance with 19 USC 1517(e)(1-3), CBP shall:

- (1) suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after February 01, 2021, the date of the initiation of the investigation;
- (2) pursuant to the Commissioner's authority under section 504(b), extend the period for liquidating each unliquidated entry of such covered merchandise that entered before the date of the initiation of the investigation February 01, 2021; and
- (3) pursuant to the Commissioner's authority under section 623, take such additional measures as the Commissioner determines necessary to protect the revenue of the United States, including requiring a single transaction bond or additional security or the posting of a cash deposit with respect to such covered merchandise.

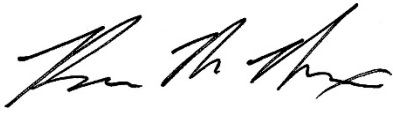
In addition, CBP will require live entry requiring cash deposits to be posted prior to release of merchandise from CBP custody. CBP will reject any entry summaries that do not comply with live entry procedure and require refiling of entries that are within the entry summary rejection period. CBP will also evaluate Vivaldi Commercial LLC (dba Superior Granite and Marble by V) and Vivaldi Interiors LLC's continuous bonds to determine their sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

For any future submissions or factual information to CBP pursuant to this EAPA investigation, please provide a business confidential version and public version to CBP. In addition, please also provide a public version to the email addresses of the parties identified at the top of this notice.

Should you have any questions regarding this investigation, please feel free to contact us at [epallegations@cbp.dhs.gov](mailto:epallegations@cbp.dhs.gov). Please include "EAPA Cons Case Number 7586" in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP's EAPA website, <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>.



Sincerely,

A handwritten signature in black ink, appearing to read "Brian M. Hoxie". The signature is fluid and cursive, with the first name "Brian" being the most prominent.

Brian M. Hoxie  
Director, Enforcement Operations Division  
Trade Remedy Law Enforcement Directorate  
CBP Office of Trade