



\$165,000 to government officials in Mozambique, through corporate subsidiaries in Belgium and Africa. Among other things, the payments were made to secure an exclusive right to purchase tobacco from regional growers and to procure legislation beneficial to the Company's business.

3. In addition, between 2002 and 2003, Universal subsidiaries paid \$850,000 to high ranking Malawian government officials. Those payments were authorized by, among others, two successive regional heads for Universal's African operations. Universal did not accurately record these payments in its books and records.

4. Universal violated Section 30A [15 U.S.C. § 78dd-1] of the Securities Exchange Act of 1934 ("Exchange Act") by making, through its subsidiaries, illicit payments to foreign government officials in order to obtain or retain business. Universal also violated Section 13(b)(2)(B) [15 U.S.C. § 78m(b)(2)(B)] of the Exchange Act by failing to have an adequate internal control system in place to detect and prevent the illicit payments, and violated Section 13(b)(2)(A) [15 U.S.C. § 78(b)(2)(A)] of the Exchange Act by improperly recording the payments in its books and records.

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa].

6. Venue in the District of Columbia is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].

7. In connection with the conduct described herein, Universal made use of the mails or the means or instrumentalities of interstate commerce.

#### **DEFENDANT**

8. Universal is a holding company incorporated in the state of Virginia with headquarters in Richmond, Virginia. Universal operates primarily through its wholly-owned

U.S. subsidiary, Universal Leaf Tobacco Company, Incorporated (“Universal Leaf”) and domestic and international subsidiaries of Universal Leaf. Universal and its subsidiaries purchase, process and sell leaf tobacco throughout the world. Universal’s common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and is listed on the New York Stock Exchange.

## **FACTS**

### **A. Payments to the Thailand Tobacco Monopoly**

#### ***Background***

9. The TTM was a government owned tobacco monopoly that, through 2005, had purchased tobacco from Universal Leaf for decades. Universal Leaf relied on third-party commission agents to assist its sales to the TTM. In or around 1999, Universal Leaf’s two commission agents told Universal Leaf that, because of the high cost of U.S. tobacco, the TTM sought to shift some of its tobacco purchases to other countries. The commission agents proposed that Universal Leaf consider offering to sell the tobacco from Universal’s Brazilian subsidiary to the TTM. The Brazilian subsidiary, Universal Leaf Tabacos Limitada (“ULTL”), was located in Santa Cruz do Sul, Brazil and served as the regional headquarters for Universal’s South American operations

10. In or around early 2000, Universal Leaf selected one of its two commission agents to assist ULTL in arranging sales to the TTM. The commission agent arranged for representatives of the TTM to travel to Brazil to visit ULTL and another potential Brazilian tobacco supplier. A ULTL account representative was assigned to the TTM account and worked with the commission agent to coordinate the TTM’s trip to Brazil.

11. On or about March 11, 2000, a ULTL executive hosted a dinner in Brazil for the visiting TTM delegation. The dinner was also attended by two ULTL sales directors, an account

representative for the TTM account, and the commission agent. During the course of the evening, the commission agent had a private conversation with the ULTL executive, the account representative and one or both of the sales directors. The commission agent stated that, in order to obtain the TTM business, ULTL would have to agree to pay "special expenses." These so-called "special expenses" were kickbacks that would be paid to certain members of the TTM. The commission agent advised ULTL that each of the Brazilian tobacco suppliers seeking to sell to the TTM would be required to pay these expenses.

***ULTL's 2000 Contract with the TTM***

12. Upon the commission agent's return to Thailand she sent a fax to ULTL requesting "confirmation on the special expenses." She indicated that the other Brazilian tobacco supplier seeking to sell to the TTM should "have the same expenses." Shortly thereafter, the ULTL account representative confirmed that ULTL would pay the special expenses. In later communications with the commission agent, the ULTL account representative indicated that ULTL would be coordinating with the other potential Brazilian tobacco supplier "in order to go with the same price [and] special expenses" and confirmed that ULTL would pay \$100,000 in special expenses as designated by the commission agent.

13. On or about March 23, 2000, ULTL submitted a bid through the commission agent to the TTM offering the sale of tobacco. The bid price was inflated by the amount of "special expenses" to be paid to TTM representatives. On March 29, 2000, the commission agent sent an email to ULTL advising that the TTM board had met and "the request to purchase Brazil tobacco, to replace part of the U.S. tobacco" was officially approved. The total value of ULTL's 2000 contract with the TTM was \$1,617,904.40 and included the amount of the special expenses

14. In April 2000, the commission agent notified ULTL that the TTM would make a

second visit to Brazil. In coordination with its commission agent, ULTL helped organize touring activities for the visiting TTM delegation and, along with the other Brazilian supplier that had been awarded a contract, paid for the tourist aspects of the TTM's Brazil trip. At the commission agent's request, ULTL also agreed to reimburse the commission agent \$3,000 in "pocket money" for members of the TTM delegation.

15. The following month, the commission agent informed Universal that another Brazilian tobacco supplier wanted to sell tobacco to the TTM. The agent sent a fax to the then-head of Universal Leaf (Asia) Pte. Ltd. ("Universal leaf Asia"), a corporate office of Universal located in Singapore whose purpose was to facilitate Universal's Asian sales. On May 17, 2000, the head of Universal Leaf Asia wrote to ULTL in a cover note forwarding a fax received from ULTL's commission agent, "What [the agent] is saying is that if the 'special expenses' are paid prior to the next visit by the [TTM Managing Director] ... there should be no problem with other cheaper quotes."

16. In June and July 2000, ULTL directed the payment of the \$100,000 in special expenses to an account identified by the commission agent. The account was held at a bank in Thailand in the name of a business that purports to be a Thai fruit export company. On June 12, 2000, ULTL sent a fax signed by a ULTL Finance executive and ULTL's Commercial Director requesting that a \$50,000 "commission" payment be issued on its behalf to the account designated by the commission agent. This request was directed to a vice president of Universal Leaf and the payment was to be made from the account of LATCO, a wholly-owned subsidiary of Universal based in Richmond, VA. ULTL sent no additional information to support the requested commission payment. The Universal Leaf vice president signed and processed the request. LATCO issued the requested payment on or about June 13, 2000 and recorded the payment as "commissions paid."

17. On July 6, 2000, ULTL faxed another request to the same Universal Leaf vice president asking that LATCO make a second "commission" payment of \$50,000 to the same account in Thailand. That request was signed by ULTL's Finance Director and the account representative for the TTM. Again, ULTL sent no supporting documentation with the request. The Universal Leaf vice president signed the request and LATCO issued the requested payment on or about July 6, 2000. The payment was recorded in LATCO's books as "commissions paid."

18. On or about July 10, 2000, ULTL, through LATCO, also reimbursed the commission agent for \$3,000 in pocket money that she provided to the TTM delegation and recorded the payment as "commissions paid."

***Universal's 2000 Contract to Sell Malawian Tobacco to the TTM***

19. On or about October 24, 2000, the TTM contracted to purchase Malawian tobacco from a European subsidiary of Universal, Utolco S.A. ("Utolco"), which was sourced by Universal's Malawian subsidiary Limbe Leaf Tobacco Company ("Limbe Leaf"). The value of the contract with the TTM was \$1,565,500.

20. Utolco's sale of Malawian tobacco to the TTM was coordinated by and between a sales director in Universal Leaf Asia's office and the same commission agent who facilitated ULTL's sale to the TTM. The Universal Leaf Asia sales director instructed Limbe Leaf personnel to follow the instructions provided by the commission agent, including for the payment of commissions, to complete the sale.

21. In accordance with the commission agent's instructions, Limbe Leaf personnel arranged a purported inspection visit to Malawi for a TTM delegation and Utolco paid certain of the delegation's airfare expenses of \$2,149.87, and \$3,000 in "pocket money."

22. On August 16, 2000, the commission agent requested that Limbe Leaf pay \$35,000 of the "special expenses" to the same bank account in Thailand to which LATCO had

previously directed the special expenses. Limbe Leaf requested that the payment be made from Utolco and, on or about November 9, 2000, requested that Utolco pay the balance of \$100,000 in special expenses. Utolco made both payments.

23. On or about November 9, 2000, Limbe Leaf requested that Utolco pay a separate commission of \$77,838 to the commission agent, representing the agent's earned commissions on the value of the Malawian tobacco contract with the TTM. After the 2000 sale, Universal made no further sales of Malawian tobacco to the TTM.

#### ***ULTL Continues the TTM Kickback Scheme Through 2004***

24. ULTL continued the kickback scheme in each of the next four years in substantially the same fashion. Each year, the commission agent would negotiate the quantity and price at which ULTL would offer to supply tobacco to the TTM with one of three successive account representatives at ULTL. The commission agent would instruct ULTL as to the amount of "special expenses" that would need to be paid to the TTM. Each year, ULTL coordinated its bid price with one or more other Brazilian tobacco suppliers to the TTM. Each of the Brazilian suppliers, including ULTL, inflated its bid price to account for the "special expenses" and transmitted additional funds to its respective agent who each understood would in turn direct the payments to the TTM representatives. The Universal Leaf Asia sales director who had coordinated the Malawian tobacco sales contract with the TTM in 2000-assumed responsibility for facilitating ULTL's interactions with the commission agent for the TTM account. Each year, ULTL directed LATCO to pay the special expenses, and each year either ULTL or LATCO would separately pay the agent a commission on the sale.

#### ***2001***

25. Between January and April 2001, the ULTL account representative, along with the commission agent, negotiated the terms on which ULTL would offer to sell tobacco from the

2001 Brazilian crop to the TTM. On or about April 2, 2001, the ULTL account representative transmitted the offer to the TTM through the commission agent. The TTM subsequently awarded ULTL a sales contract for \$4,560,054, including the amount of the special expenses.

26. On or about June 28, 2001, the commission agent emailed the account representative and the Universal Leaf Asia sales director requesting that ULTL pay 50% of the special expenses for the order. The commission agent instructed ULTL to make the payment to an account in the name of an individual in Hong Kong who was not known to ULTL ("the Hong Kong account"). The commission agent explicitly directed ULTL to "advise your bank not to mention our name in the remittance instruction."

27. On or about July 5, 2001, ULTL sent a fax to the Universal Leaf vice president in Richmond, VA, who had facilitated the LATCO payments in connection with the 2000 sale to the TTM, to request that LATCO pay \$110,000 to the Hong Kong account. The fax indicated that it was for payment of a "commission" on the TTM business. The request was sent by an individual in the shipping department at ULTL and was signed by a ULTL Finance executive and the account representative. No other documentation supporting the payment request was provided. LATCO issued the requested payment on or about July 6, 2001, and recorded it as "commissions paid."

28. On August 20, 2001, the same individual in ULTL's shipping department sent a second fax to the Universal Leaf vice president in Richmond, VA requesting that LATCO issue a second payment of \$110,000 to the Hong Kong account. The text of the fax stated that the payment was for the "50% (Balance) of 'special expenses'" on the TTM sale. The request was signed by a ULTL Finance executive and an account representative. No other documentation supporting the payment request was provided. LATCO issued the requested payment on or about August 21, 2001, and recorded it as "commissions paid."



2002

29. In or around February 2002, the commission agent and ULTL account representatives began discussing the TTM's 2002 tobacco order. The next month, the commission agent notified ULTL that the TTM delegation would travel to Brazil in April to sample tobacco, and stated that ULTL should provide \$1,000 in pocket money per traveling delegation member. The TTM completed its trip to Brazil in April and, on July 17, 2002, ULTL, through LATCO, reimbursed the commission agent \$3,000 for "pocket money" she had provided to members of the TTM delegation for the trip, and \$973 for flight upgrades. LATCO recorded these payments as "commissions paid."

30. On April 24, 2002, the commission agent emailed the ULTL account representative and the Universal Leaf Asia sales director stating that she had met with the commission agents for the two other Brazilian tobacco suppliers to the TTM and the TTM's Managing Director. She learned that the "special expenses" that year would be \$0.45 per kilogram "based on the condition that there are only the 3 regular suppliers." In that same email, in reference to the inspection trip, the commission agent wrote "The official version [of the trip] was that the TTM directors went along to see the working but really went for the pleasure trip (the perks) as none of them has ever been to Brazil . . . . However, some things are better left unsaid."

31. In or around April 2002, ULTL, through its commission agent, sent the TTM an offer to supply tobacco. The bid price included "special expenses" of \$0.45 per kilogram. On or before June 10, 2002, The TTM awarded ULTL a sales contract for \$1,075,200, including the amount of special expenses.

32. On or about September 4, 2002, the commission agent emailed the account representative and the Universal Leaf Asia sales director requesting payment of special expenses

and wrote, "please be advised not to state 'special expenses for TTM' in the bank application form for remittance otherwise the Hong Kong account will have a problem."

33. On or about September 17, 2002, ULTL emailed the Controller of Universal and of Universal Leaf in Richmond, VA, an "urgent" request that LATCO pay \$86,400 to the Hong Kong account. The email stated "for your info this payment refers to a sale done to the Thailand Tobacco Monopoly. No reference should be made in the application form." The email was sent by the same employee who previously transmitted requests for payment from ULTL. The employee copied a ULTL Finance executive and a ULTL sales director on the email. No other documentation supporting the payment request was provided. LATCO issued the requested payment on or about September 19, 2002, and recorded it as "commissions paid."

### 2003

34. Between January and April 2003, the ULTL account representative, along with the commission agent, negotiated the terms on which ULTL would offer to sell tobacco from the 2003 Brazilian crop to the TTM. On or about April 1, 2003, ULTL transmitted an offer to the TTM through the commission agent. The TTM subsequently awarded ULTL a sales contract for \$1,130,880. The contract price included special expenses to be paid to the TTM of \$0.50 per kilogram.

35. On or about September 1, 2003, ULTL emailed the Director of Accounting for Universal Leaf in Richmond, VA, a request that LATCO pay \$96,000 to the Hong Kong account. The email stated "This payment refers to 'Special Expenses' covering our sale to Thailand." The email was sent by the same individual in the ULTL shipping department who had made payment requests in 2001 and 2002 and was copied to a ULTL Finance executive, a ULTL sales director, and the account representative. No other documentation supporting the payment request was provided. LATCO issued the requested payment on or about September 3,

2003, which it recorded in as "commissions paid."

*2004*

36. In or around July 2004, the ULTL account representative, along with the commission agent, began to negotiate the terms on which ULTL would offer to sell tobacco from the 2004 Brazilian crop to the TTM. On or about July 15, 2004, the ULTL account representative learned that the special expenses for that year would be approximately \$0.80 per kilogram and emailed the commission agent, "I do not see many alternatives for us. We have to play the game according to the rules. We are not so happy about these extra 30 cents (0.50 in 2003 to 0.80 in 2004), because it will affect our margins significantly." The commission agent wrote back, in part, "there is nothing much one can do..." and copied the email exchange to another ULTL account representative and to the Universal Leaf Asia sales director.

37. On or about July 21, 2004, through the commission agent, the account representative transmitted an offer to the TTM inflating the price to include the amount of the "special expenses" to be paid. The TTM subsequently awarded ULTL a sales contract for \$1,472,256 that included the special expenses.

38. On or about November 25, 2004, the commission agent emailed the ULTL account representative, a second account representative and the Universal Leaf Asia Sales Director that she was informed by the commission agent for another Brazilian tobacco supplier that the special expenses were to be \$0.85 per kilogram and asked ULTL to remit the special expenses to the Hong Kong account.

39. On or about December 7, 2004, ULTL emailed the Director of Accounting for Universal Leaf in Richmond, VA, a request that LATCO pay \$195,040 to the Hong Kong account, noting that the payment "refers to 'Special expenses'" covering our 2004 sales to the Thailand Tobacco Monopoly." In the same email, ULT requested that LATCO transmit

\$61,897.77 to a German bank account for the commission agent, noting that this “amount refers to 5% commission on net FOB payable to our Agent.” The same shipping department employee at ULTL who sent requests for payment in the years 2001 through 2003 sent the email, copying a ULTL Finance executive and account representative, and a third employee at ULTL. No other documentation supporting the payment request was provided. LATCO issued both requested payments on or about December 8, 2004, and separately recorded each payment as “commissions paid.”

40. In 2005, the TTM changed to a “blind” electronic auction process for purchasing tobacco. The commission agent continued to work with ULTL and advised that the system would be transparent and that no special expenses would be paid. The account representative emailed ULTL’s president about the new process, “[A]ny company can participate. So, instead of competing with other 5 suppliers and having a certain agreement on volumes and prices, we should be competing with anyone that wants to do business with Thailand without any pre-agreement. [...] There should not be any special expenses included and prices should drop drastically.”

41. ULTL successfully bid in the electronic auction and was awarded a contract valued at \$3,125,230. After 2005, ULTL declined to further bid in the auction process and ULTL has not since sold tobacco to the TTM.

#### **B. Payments to Mozambican Officials**

42. Beginning in or around March 2004 and continuing through approximately September 2007, Universal subsidiaries made improper payments totaling approximately \$165,000 to five Mozambican government officials and/or their family members at the direction, or with the authorization, of the regional director at Universal Leaf Africa (Pty) Limited (“Universal Leaf Africa”).

43. On or about March 26, 2004, Universal Leaf Africa made the first of what were intended to be two \$10,000 payments to the wife of an official in Mozambique's Ministry of Agriculture and Fisheries. The payment, made through Universal's Belgian subsidiary, was to obtain the Director's assistance in revising legislation to impose a 20% export tax on unprocessed tobacco. This legislation would have benefitted Universal over its competitors because Universal was building a tobacco processing plant in the country. A second payment was to be made once the legislation went into effect; however, it was not passed and no additional payment was made. The \$10,000 payment was recorded in the subsidiary's books and records as a "consultancy fee."

44. On or about March 21, 2005, Universal Leaf Africa directed that Universal's Belgian subsidiary pay \$50,000 to the brother of an official in Mozambique's Ministry of Agriculture and Fisheries. The payment was recorded as a "commission for broker's fees for trade" and made to enable the Company's Mozambican subsidiary to avoid incurring an export tax that it otherwise would have incurred for shipping unprocessed tobacco out of Mozambique. The Mozambican subsidiary shipped its unprocessed tobacco and avoided the export tax.

45. From approximately October 2005 through July 2006, Universal Leaf Africa made a series of payments totaling \$86,830 from its own account and the account of the Mozambican subsidiary to secure a land concession giving the subsidiary exclusive rights to purchase tobacco from growers on that land for the 2006 growing season. At the direction of its then regional director, Universal Leaf Africa made cash payments to a Governor in Mozambique; and gave gifts including supplies for a bathroom renovation, personal travel on a Company jet, and cash payments to officials in Mozambique, including in its Ministry of Agriculture and Fisheries. Universal netted approximately \$457,260 in profits in 2007 as a result of acquiring and selling tobacco grown on the land. The payments were variously recorded in

the subsidiaries' books and records as, among other things, "travel advances," and cash disbursements.

46. Between approximately June 2005 and September 2007, Universal Leaf Africa forgave a debt and directed an additional series of payments from its own accounts and the account of the Mozambican subsidiary totaling \$19,061. The debt forgiveness and payments were provided to Mozambican government officials and their family members in exchange for continued business favor.

### **C. Payments to Malawian Officials**

47. Between approximately October 2002 and November 2003, Universal Leaf Africa made payments totaling \$500,000 to one high-ranking Malawian government official; \$250,000 to a second high-ranking government official; and \$100,000 to a political opposition leader.

### **D. Books and Records and Internal Controls Violations**

#### ***Payments to Government Officials in Thailand***

48. Between 2000 and 2004, Universal's sales contracts from ULTL and Utolco to the TTM totaled approximately \$11,421,794, in exchange for which Universal, through its subsidiaries' commission agent, paid the TTM \$797,800 in kickbacks. Universal made those payments under circumstances in which the Company lacked adequate internal controls to ensure that such payments were not being transmitted to government officials at the TTM in order to obtain or retain business in Thailand.

49. Universal's books and records indicate that the payments to the commission agent for "special expenses," as well as for flights, tourism and cash in the form of "pocket money" were improperly recorded as "commissions paid" related to its tobacco sales to the TTM. Universal Leaf, Universal's U.S. subsidiary, required no supporting documentation beyond ULTL's request for payment in order to process the payments from LATCO.

### ***Payments to Government Officials in Mozambique***

50. From approximately March 2004 through September 2007, Universal's subsidiaries made payments to Mozambican government officials and members of their families under circumstances in which the Company failed to have and maintain adequate internal controls to ensure that such payments were not being made in order to obtain or retain business in Mozambique.

51. Universal's books and records indicate that the payments to the Mozambican officials were variously and improperly recorded as, among other things, "commissions," "consultancy fees" and "travel advances." Universal required no supporting documentation beyond Universal Leaf Africa's request for the payments made through its Belgian and African subsidiaries, and had no effective controls ensuring that payments made out of Universal Leaf Africa were proper.

### ***Payments to Government Officials in Malawi***

52. Between October 2002 and November 2003, Universal subsidiaries made payments totaling \$850,000 to three Malawian government officials from an account held by its Belgian subsidiary. These payments were variously and improperly recorded as "fee for service," "commission for brokers [sic] fees," "expenses... relating to Malawi tobacco purchasing requirements," and "donations made to the Malawi government." The Company had no effective controls ensuring that payments to these government officials were proper.

## **CLAIMS FOR RELIEF**

### **FIRST CLAIM**

#### **Violations of Section 30A of the Exchange Act**

53. Paragraphs 1 through 52 are re-alleged and incorporated by reference.

54. As described above, Universal through its officers, agents, and certain of its

subsidiaries, corruptly offered, promised to pay, or authorized payments to a person, while knowing that all or a portion of those payments would be corruptly offered, given, or promised, directly or indirectly, to foreign officials for the purposes of influencing their acts or decisions in their official capacity, inducing them to do or omit to do actions in violation of their official duties, securing an improper advantage, or inducing such foreign officials to use their influence with a foreign government or an instrumentality thereof to assist Universal in obtaining or retaining business.

55. By reason of the foregoing, Universal violated, and unless enjoined will continue to violate, Section 30A of the Exchange Act [15 U.S.C. §78dd-1].

### **SECOND CLAIM**

#### **Violations of Section 13(b)(2)(A) of the Exchange Act**

56. Paragraphs 1 through 52 are re-alleged and incorporated by reference.

57. As described above, Universal through its officers, agents, and subsidiaries, failed to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected its transactions and dispositions of its assets.

58. By reason of the foregoing, Universal violated Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. §78m(b)(2)(A)].

### **THIRD CLAIM**

#### **Violations of Section 13(b)(2)(B) of the Exchange Act**

59. Paragraphs 1 through 52 are re-alleged and incorporated by reference.

60. As described above, Universal and certain of its United States and foreign subsidiaries failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (i) payments were made in accordance with management's general or specific authorization; and (ii) payments were recorded as necessary to permit



preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for its assets.

61. By reason of the foregoing, Universal violated Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. §78m(b)(2)(B)].

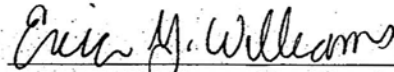
**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court enter a judgment:

- A. Permanently enjoining Universal from violating Sections 30A, 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78dd-1; 78m(b)(2)(A) and 78m(b)(2)(A) (B)];
- B. Ordering Universal to disgorge ill-gotten gains, with prejudgment interest, wrongfully obtained as a result of its illegal conduct; and
- C. Granting such further relief as this Court may deem just and appropriate.

Dated: August 6, 2010

Respectfully submitted,



Erica Y. Williams (Bar No. 464518)

Christopher R. Conte (Bar No. 419774)

Charles E. Cain (Bar No. 461527)

Christine E. Neal

Amybeth García-Bokor (Bar No. 453279)

Uta von Eckartsberg

Attorneys for Plaintiff

U.S. Securities and Exchange Commission

100 F Street, N.E.

Washington, D.C. 20549-4631

(202) 551-4450 (Williams)

(202) 772-9246 (facsimile)