

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No.: 09-
 :
 :
 v. : 18 U.S.C. § 542;
 : 21 U.S.C. §§ 331(a), 333(a)(2)
 : and 343(a)(1)
 THOMAS GEORGE :

INFORMATION

The defendant having waived in open court prosecution by Indictment, the Acting United States Attorney for the District of New Jersey charges:

COUNT ONE

(Entry of Goods by False Statement)
(18 U.S.C. § 542)

1. At all times relevant to this Information:

a. Defendant THOMAS GEORGE was a resident of New Jersey and the owner and Chief Executive Officer of a company identified herein as S. Seafood Corporation (hereinafter "S. Seafood"). S. Seafood was a New Jersey corporation engaged in the business of the wholesale distribution of seafood products. As a part of its business, S. Seafood imported seafood products into the United States from various other countries, including Vietnam, and offered those products for resale.

b. Company 1 was a seafood distribution company located in Vietnam. Individual 1 was the Vice President and Director of Factory for Company 1.

c. The U.S. Department of Commerce ("DOC") was charged with regulating commerce in the United States. As part of its responsibilities, the DOC monitored the importation of foreign goods into the United States and had the authority to impose various duties on certain foreign imports when deemed necessary to the regulation of commerce in the United States.

d. One type of duty imposed by the DOC was known as an "anti-dumping duty." An anti-dumping duty order was a formal determination issued by the DOC that duties should be collected on imports of a particular product from specified countries. Anti-dumping duties were intended to ensure fair competition between U.S. companies and foreign industry, and to counter international price discrimination that resulted in injury to U.S. industries from "dumping." Dumping occurred when a foreign firm sold merchandise in the U.S. market at a price lower than the price it charged for a comparable product sold in its home market.

e. In the ordinary course of business, the importer of record with U.S. Customs and Border Protection ("CBP"), was responsible for the payment of duties, taxes and fees on all goods imported into the United States. The importer of record was also responsible for using reasonable care to enter, classify, and determine the value of imported merchandise, and to provide any other information necessary to enable CBP to assess duties properly, collect accurate statistics, and

determine whether other applicable legal requirements, if any, had been met. The importer of record was required to provide all necessary information to CBP, usually through a customs broker, before the imported goods were released by CBP.

2. From in or about January 2003 to in or about June 2006, defendant THOMAS GEORGE maintained a business relationship through S. Seafood with Company 1. As a part of that business relationship, S. Seafood regularly purchased a type of fish product in the catfish family, specifically Pangasius hypophthalmus (hereinafter "Pangasius"), from Company 1, which Pangasius was imported into the United States for resale by S. Seafood.

3. On or about August 12, 2003, the DOC issued an anti-dumping duty order, retroactively effective to January 31, 2003, which imposed a duty on all imports of Pangasius into the United States. That initial anti-dumping duty order imposed a duty of up to 63.88% on all fish subject to the order. At various times relevant to this Information, the DOC revised that anti-dumping duty order to adjust the applicable rate.

4. From in or about early 2004 to in or about June 2006, defendant THOMAS GEORGE agreed with Individual 1 to engage in a scheme to falsely identify, mislabel, and fraudulently declare the purchase and importation into the United States of Pangasius from Company 1 in order to evade the applicable anti-dumping duties.

5. It was part of the scheme that defendant THOMAS GEORGE would instruct Individual 1 to fraudulently identify the Pangasius being purchased by S. Seafood from Company 1 as "grouper" on commercial contracts, purchase orders, health certificates, certificates of origin, manifests, transportation entries, invoices, packing lists, bills of lading, and other documents associated with the purchase and importation.

6. As a further part of the scheme, defendant THOMAS GEORGE, through S. Seafood as the importer of record, would import into the United States, through Newark, New Jersey and elsewhere, the misbranded Pangasius using false statements on declaration forms provided to CBP.

7. Based on the false statements and other declarations, defendant THOMAS GEORGE, through S. Seafood, avoided millions of dollars in anti-dumping duties applicable to the Pangasius purchased from Company 1 and imported into the United States from Vietnam. Between in or about June 2004 and in or about June 2006, as a part of the scheme, defendant THOMAS GEORGE, through S. Seafood, imported from Vietnam approximately 257 shipments of Pangasius weighing approximately 5,277,561 kilograms. The value of this Pangasius was approximately \$16,108,766 and the total loss in anti-dumping duties to the United States was approximately \$63,825,021.

8. As a part of the scheme, on or about December 22, 2004, defendant THOMAS GEORGE caused the importation into the

United States, Port of New York, of approximately 10,196 kilograms of Pangasius, which was falsely labeled as frozen grouper fillets.

9. On or about December 22, 2004, in the District of New Jersey and elsewhere, defendant

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did knowingly and willfully enter and introduce and attempted to enter and introduce into the commerce of the United States imported merchandise from Vietnam, that is frozen fillets of Pangasius hypophthalmus, a fish in the catfish family, by means of fraudulent and false invoices, declarations, affidavits, letters, papers and by means of written false statements as to material matters.

In violation of Title 18, United States Code, Section 542.

COUNT TWO

(Introduction of Misbranded Food)
(21 U.S.C. §§ 331(a), 333(a)(2) and 343(a)(1))

1. Paragraphs 1 to 8 of Count 1 of this Information are realleged as if set forth in full herein.

2. Company 2 was a Virginia corporation engaged in the business of the wholesale distribution of seafood products. As a part of its business, Company 2 and affiliated corporations imported seafood products purchased from Vietnam and other places into the United States through California and other ports of entry. Company 2 and its affiliates then offered the imported seafood products for resale in the United States. Among the products imported into the United States for resale by or on behalf of Company 2 were frozen fillets of *Pangasius hypophthalmus* from Vietnam.

3. On or about December 21, 2004, defendant THOMAS GEORGE ordered and purchased approximately \$5,151 of frozen *Pangasius* fillets from Company 2 and its affiliates.

4. Between on or about April 14, 2005, and on or about May 4, 2005, defendant THOMAS GEORGE ordered and purchased approximately \$35,587 of frozen *Pangasius* fillets from Company 2 and its affiliates.

5. Between on or about April 13, 2005, and on or about June 15, 2005, defendant THOMAS GEORGE ordered and purchased approximately \$503,904 of frozen *Pangasius* fillets from Company 2 and its affiliates.

6. All of the Pangasius referenced in paragraphs 3 and 4 above, when purchased and thereafter resold in interstate commerce by defendant THOMAS GEORGE through S. Seafood, was falsely labeled as frozen fillets of "sole."

7. All of the Pangasius referenced in paragraph 5 above, when purchased and thereafter resold in interstate commerce by defendant THOMAS GEORGE through S. Seafood, was falsely labeled as frozen fillets of "grouper."

8. At all times relevant to Count 2 of this Information:

a. Defendant THOMAS GEORGE knew at the time of purchase that the Pangasius was imported from Vietnam by Company 2 and its affiliates and falsely labeled at the time of importation in order to avoid anti-dumping duties.

b. Defendant THOMAS GEORGE, through S. Seafood, subsequently resold the Pangasius to other distributors in the District of New Jersey and elsewhere, as sole and grouper.

c. Defendant THOMAS GEORGE knew that the sole and grouper labels were false and misleading labels for the Pangasius that he purchased from Company 2 and its affiliates and resold in interstate commerce.

9. Between on or about December 1, 2004, and on or about June 30, 2005, in the District of New Jersey and elsewhere, the defendant

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with intent to defraud and mislead, knowingly introduced and caused the introduction of food into interstate commerce, specifically approximately \$539,000 worth of frozen fillets of fish, that was misbranded, in that it had been falsely labeled as sole or grouper, when in truth and in fact it was Pangasius hypophthalmus, a member of the catfish family.

In violation of Title 21, United States Code, Sections 331(a), 333(a)(2), and 343(a)(1).

PAUL J. FISHMAN
United States Attorney