

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Esther Salas
v. : Crim. No. 13-113
ZHIFEI LI, : 18 U.S.C. § 371
 : 18 U.S.C. § 554
Defendant. : 18 U.S.C § 2
 : 16 U.S.C. §§ 3372(a)(1) and
 : 3373(d)(1)(A)
 : 16 U.S.C. §§ 3372(d) and
 : 3373(d)(3)(A)(i)

SUPERSEDING INFORMATION

The defendant having waived in open court prosecution by Indictment, and any challenges based on venue, the United States Attorney for the District of New Jersey and the Acting Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice charge:

COUNT ONE - CONSPIRACY
(18 U.S.C. § 371)

1. At various times relevant to this Superseding Information unless otherwise indicated:

The Defendant

a. Defendant ZHIFEI LI (hereinafter, "defendant LI") was a Chinese national residing in the People's Republic of China.

The Co-Conspirators

2. Certain of defendant LI's co-conspirators, who are not named as defendants herein, are identified herein as CC1, CC2 and CC3. At various times relevant to this Superseding Information:

a. CC1 was a Chinese national who operated an auction house in or near Long Island City, New York.

b. CC2 was a foreign national residing at various times in the State of Florida and in a foreign country.

c. CC3 was a U.S. citizen with a place of business in or near Little Ferry, New Jersey.

Background on Regulation of Trade in Endangered Species

3. Trade in rhinoceros horn and elephant ivory had been regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") since 1976. CITES was an international treaty providing protection to fish, wildlife and plants that were or could become imperiled due to the demands of international markets. CITES had been signed by over 170 countries including the United States and China. CITES was implemented in the United States under the authority of the Endangered Species Act ("ESA") and the regulations promulgated thereunder. 16 U.S.C. § 1538(c); 50 C.F.R. §§ 14 and 23. An

animal species listed as protected within CITES could not have been legally exported from the United States without prior notification to, and approval from, the U.S. Fish & Wildlife Service ("USFWS"). 50 C.F.R. §§ 23.13 and 23.20. Species protected under CITES were listed in a series of appendices (Appendices I, II and III). Under Appendix II of CITES, a species could be legally exported from the United States to a foreign country only if, prior to exportation, the exporter possessed a valid CITES export permit issued by the United States. See 50 C.F.R. §§ 23.13 and 23.20. Under Appendix I of CITES, a species could be legally exported from the United States to a foreign country only if, prior to exportation, the exporter possessed a valid foreign import permit issued by the country of import and a valid export permit issued by the United States. See 50 C.F.R. §§ 23.13, 23.20 and 23.35. All rhinoceros and elephant species were protected under either CITES Appendix I or II.

4. The ESA also made it unlawful to export any endangered wildlife species (Title 16, United States Code, Section 1538(a)(1)(A)). Under the ESA, the term "endangered species" included any species, or part thereof, in danger of extinction throughout all or a significant portion of its range. All species of wildlife determined to be endangered under the ESA

were listed in Title 50, Code of Federal Regulations, Section 17.11. The species *Diceros bicornis*, commonly known as the black rhinoceros, was listed as an endangered species.

5. Rhinoceros were characterized by their enormous size, leathery skin and horns. Rhinoceros horn was composed of keratin, the same material that makes up human toenails. Rhinoceros horn was a highly valued and sought after commodity despite the fact that international trade in it has been largely banned and highly regulated since 1976. Libation cups and other ornamental carvings were particularly sought after in China and other Asian countries as well as in the United States. The escalating value of these items had resulted in an increased demand for rhinoceros horn and helped to foster a thriving black market in the horn. Most species of rhinoceros were extinct in the wild or on the brink of extinction as a result.

6. Elephant ivory and carved art objects made from such ivory were also highly valued and sought after commodities despite the fact that international trade in them had been largely banned and otherwise highly regulated since 1976. Ivory was composed of dentine with a layer of enamel, just like teeth. The demand for antiques and art made of or containing elephant ivory had also resulted in a thriving black market. Elephants were threatened in many countries as a result.

7. In addition to the CITES export document requirements set forth above, Title 50, Code of Federal Regulations, Section 14.63, required that a completed Declaration for Importation or Exportation of Fish or Wildlife signed by the exporter, or the exporter's agent, be filed with USFWS prior to the export of any wildlife at the port of exportation.

Conspiracy

8. Beginning on a date unknown, and including from at least in or about December 2010 through in or about February 2012, in Bergen County, in the District of New Jersey, and elsewhere, the defendant,

ZHIFEI LI,

did knowingly and intentionally conspire and agree with others known and unknown to commit the following offenses against the United States:

a. to fraudulently and knowingly export and send from the United States merchandise, namely CITES-protected rhinoceros horns and horns of endangered black rhinoceros, contrary to laws and regulations of the United States, and receive, conceal, buy, sell, and facilitate the transportation, concealment, and sale of such merchandise, prior to exportation, knowing the same to be intended for exportation contrary to laws and regulations of

the United States, contrary to Title 18, United States Code, Section 554;

b. to knowingly export CITES-protected rhinoceros horns and horns of endangered black rhinoceros, knowing that such wildlife was transported and sold in violation of, and in a manner unlawful under, the laws and regulations of the United States, contrary to Title 16, United States Code, Sections 3372(a)(1) and 3373(d)(1)(A); and

c. to knowingly make and submit a false record, account, and label for, and false identification of, wildlife, namely, raw rhinoceros horns, which were, and were intended to be, exported from the United States, contrary to Title 16, United States Code, Sections 3372(d) and 3373(d)(3)(A)(i).

Manner and Means of the Conspiracy

9. It was a part of the conspiracy that defendant LI paid CC1 to obtain rhinoceros horns, including those of the endangered black rhinoceros, in the United States from CC2 and CC3.

10. It was further a part of the conspiracy that CC2 and CC3 obtained raw rhinoceros horns in the United States from various sources, including a wildlife auction business in Missouri.

11. It was further a part of the conspiracy that defendant

LI and CC1 negotiated a price for the horns with CC2 and CC3 and other sellers of rhinoceros horns.

12. It was further a part of the conspiracy that defendant LI wired and arranged to have wired hundreds of thousands of dollars from various foreign bank accounts, including from accounts belonging to other individuals and corporations, to U.S. bank accounts controlled by CC1 to fund the rhinoceros horn purchases.

13. It was further a part of the conspiracy that CC1 traveled from New York to New Jersey to pick up rhinoceros horns for defendant LI.

14. It was further a part of the conspiracy that CC1, at the direction of defendant LI, concealed the rhinoceros horns for shipment by wrapping them in duct tape, hiding them in porcelain vases, and falsely recording on shipping documents that the shipments contained only porcelain vases.

15. It was further a part of the conspiracy that CC1, at the direction of defendant LI, directed the shipments of rhinoceros horns to names and addresses in Hong Kong to assist in smuggling the horns to mainland China.

16. It was further a part of the conspiracy that defendant LI and CC1 neither declared to officials of USFWS, as required by law, that rhinoceros horns were being exported from the

United States to Hong Kong nor obtained the required CITES export documents for those horns.

Overt Acts

17. In furtherance of the conspiracy and to effect the objectives thereof, defendant LI, CC1, CC2, CC3, and others known and unknown, committed and caused to be committed, the following overt acts, among others, within the District of New Jersey, and elsewhere:

a. Overt Act 1: On or about December 22, 2010, after defendant LI advised CC1 to respond to an internet advertisement offering rhinoceros horns for sale, CC1 provided defendant LI with an email from an individual in Cameroon showing photographs of the rhinoceros horns for sale and the downed rhinoceros from which the horns had been removed.

b. Overt Act 2: In or about March 2011, CC1 and others attempted to purchase and import to the United States two rhinoceros horns from Cameroon weighing approximately 9.4 pounds total by wiring approximately \$16,000 from the United States to Cameroon, after being promised that the seller would bring additional horns when the seller visited the United States.

c. Overt Acts 3-13: On or about the dates set forth below, defendant LI and CC1 purchased, received or transported,

or caused the purchase, receipt or transportation, of rhinoceros horns at or near the locations listed below:

Overt Act	Date	Location of Purchase	Number of Rhinoceros Horns
3	February 2011	Miami, Florida	1
4	February 2011	Ormond Beach, Florida	2
5	April 2011	Ormond Beach, Florida	2
6	May 2011	Ormond Beach, Florida	2
7	June 2011	Ormond Beach, Florida	2
8	October 2011	Wanaque, New Jersey	2
9	October 2011	Little Ferry, New Jersey	4
10	November 2011	Ridgefield, New Jersey	2
11	January 2012	Little Ferry, New Jersey	1
12	February 2012	Little Ferry, New Jersey	1
13	February 2012	Little Ferry, New Jersey	2

d. Overt Acts 14-23: On or about the dates set forth above in Overt Acts 3-12, defendant LI and CC1 knowingly exported and caused the exportation of rhinoceros horns from the

United States to Hong Kong without CITES export permits and without declaration to USFWS.

In violation of Title 18, United States Code, Section 371.

COUNT TWO - SMUGGLING
(18 U.S.C. §§ 554 and 2)

1. The allegations set forth in paragraphs 1 through 7 and 9 through 17 of Count One of this Superseding Information are re-alleged and incorporated herein.

2. In or about November 2011, in the District of New Jersey, and elsewhere, the defendant,

ZHIFEI LI,

fraudulently and knowingly exported and sent from the United States merchandise, namely two raw horns of endangered black rhinoceros, contrary to laws and regulations of the United States, and received, concealed, bought, sold, and facilitated the transportation, concealment, and sale of such merchandise, prior to exportation, knowing that such merchandise was intended for exportation contrary to laws and regulations of the United States by: (1) exporting an endangered wildlife species, in violation of the ESA (Title 16, United States Code, Section 1538(a)(1)(A)); (2) exporting CITES-protected wildlife without a valid CITES export permit issued by the United States in violation of the ESA (Title 16, United States Code, Section 1538(c)(1)), and Title 50, Code of Federal Regulations, Sections 23.13 and 23.20; and (3) failing to declare such merchandise to officials of the USFWS, in violation of Title 50, Code of Federal Regulations, Section 14.63.

In violation of Title 18, United States Code, Sections 554
and 2.

COUNT THREE — LACEY ACT WILDLIFE TRAFFICKING

(16 U.S.C. §§ 3372(a)(1) and 3373(d)(1)(A), and 18 U.S.C. § 2)

1. The allegations set forth in paragraphs 1 through 7 and 9 through 17 of Count One of this Superseding Information are re-alleged and incorporated herein.

2. In or about November 2011, in the District of New Jersey, and elsewhere, the defendant,

ZHIFEI LI,

knowingly exported wildlife, namely two raw horns of endangered black rhinoceros, from the United States to Hong Kong, that had been sold and transported in violation of the ESA, in that, prior to exportation of such rhinoceros horns, defendant LI knew that such horns had been (1) transported in interstate commerce and in the course of a commercial activity, in violation of the ESA (Title 16, United States Code, Section 1538(a)(1)(E)); and (2) sold in interstate and foreign commerce, in violation of the ESA (Title 16, United States Code, Section 1538(a)(1)(F)).

In violation of Title 16, United States Code, Sections 3372(a)(1) and 3373(d)(1)(A) and Title 18, United States Code, Section 2.

COUNT FOUR - SMUGGLING
(18 U.S.C. § 554 and 2)

1. The allegations set forth in paragraphs 1 through 7 and 9 through 17 of Count One of this Superseding Information are re-alleged and incorporated herein.

2. In or about February 2012, in the District of New Jersey, and elsewhere, the defendant,

ZHIFEI LI,

fraudulently and knowingly attempted to export and send from the United States merchandise, namely two raw horns of endangered black rhinoceros, contrary to laws and regulations of the United States, and receive, conceal, buy, sell, and facilitate the transportation, concealment, and sale of such merchandise, prior to exportation, knowing that such merchandise was intended for exportation contrary to laws and regulations of the United States by: (1) attempting to export CITES-protected wildlife without a valid CITES export permit issued by the United States in violation of the ESA (Title 16, United States Code, Section 1538(c)(1)), and Title 50, Code of Federal Regulations, Sections 23.13 and 23.20; and (2) attempting to export wildlife without declaring such wildlife to officials of the USFWS, in violation of Title 50, Code of Federal Regulations, Section 14.63.

In violation of Title 18, United States Code, Sections 554
and 2.

COUNT FIVE — SMUGGLING
(18 U.S.C. §§ 554 and 2)

1. The allegations set forth in paragraphs 1(a) and 3 through 7 of Count One of this Superseding Information are re-alleged and incorporated herein.

2. In or about June 2012, in the Eastern District of New York, and elsewhere, the defendant,

ZHIFEI LI,

fraudulently and knowingly exported and sent from the United States merchandise, namely two libation cups made of rhinoceros horn, contrary to laws and regulations of the United States, and received, concealed, bought, sold, and facilitated the transportation, concealment, and sale of such merchandise, prior to exportation, knowing that such merchandise was intended for exportation contrary to laws and regulations of the United States by: (1) exporting CITES-protected wildlife without a valid CITES export permit issued by the United States in violation of the ESA (Title 16, United States Code, Section 1538(c)(1)), and Title 50, Code of Federal Regulations, Sections 23.13 and 23.20; and (2) failing to declare such merchandise to officials of the USFWS, in violation of Title 50, Code of Federal Regulations, Section 14.63.

In violation of Title 18, United States Code, Sections 554 and 2.

COUNT SIX — SMUGGLING
(18 U.S.C. §§ 554 and 2)

1. The allegations set forth in paragraph 1(a) and 3 through 7 of Count One of this Superseding Information are re-alleged and incorporated herein.

2. On or about December 4, 2012, in the Eastern District of New York, and elsewhere, the defendant,

ZHIFEI LI,

fraudulently and knowingly attempted to export and send from the United States merchandise, namely five elephant ivory carvings, contrary to laws and regulations of the United States, and receive, conceal, buy, sell, and facilitate the transportation, concealment, and sale of such merchandise, prior to exportation, knowing that such merchandise was intended for exportation contrary to laws and regulations of the United States, by: (1) attempting to export CITES-protected wildlife without a valid CITES export permit issued by the United States in violation of the ESA (Title 16, United States Code, Section 1538(c)(1)), and Title 50, Code of Federal Regulations, Sections 23.13 and 23.20; and (2) attempting to export wildlife without declaring such wildlife to officials of the USFWS, in violation of Title 50, Code of Federal Regulations, Section 14.63.

In violation of Title 18, United States Code, Sections
554 and 2.

COUNT SEVEN — FALSE RECORD

(16 U.S.C. §§ 3372(d) and 3373(d)(3)(A)(i), and 18 U.S.C. § 2)

1. The allegations set forth in paragraph 1(a) and 3 through 7 of Count One of this Superseding Information are re-alleged and incorporated herein.

2. On or about December 4, 2012, in the Eastern District of New York, and elsewhere, the defendant,

ZHIFEI LI,

knowingly made and submitted, and caused to be made and submitted, a false record, account, and label for, and false identification of, wildlife, namely, a required Customs Declaration and Dispatch Note for wildlife, stating that a package to be delivered by the United States Postal Service to Hong Kong contained wood carvings worth \$200, knowing that the package instead contained five elephant ivory carvings worth thousands of dollars, which were intended to be exported from the United States.

In violation of Title 16, United States Code, Sections 3372(d) and 3373(d)(3)(A)(i) and Title 18, United States Code, Section 2.

COUNT EIGHT- SMUGGLING
(18 U.S.C. §§ 554 and 2)

1. The allegations set forth in paragraph 1(a) and 3 through 7 of Count One of this Superseding Information are re-alleged and incorporated herein.

2. From in or about May 2012 through in or about August 2012, in the Eastern District of Texas, and elsewhere, the defendant,

ZHIFEI LI,

fraudulently and knowingly exported and sent from the United States merchandise, namely rhinoceros horn carvings, contrary to laws and regulations of the United States, and received, concealed, bought, sold, and facilitated the transportation, concealment, and sale of such merchandise, prior to exportation, knowing that such merchandise was intended for exportation contrary to laws and regulations of the United States by: (1) exporting CITES-protected wildlife without a valid CITES export permit issued by the United States in violation of the ESA (Title 16, United States Code, Section 1538(c)(1)), and Title 50, Code of Federal Regulations, Sections 23.13 and 23.20; and (2) failing to declare such merchandise to officials of the USFWS, in violation of Title 50, Code of Federal Regulations, Section 14.63.

In violation of Title 18, United States Code, Sections 554
and 2.

COUNT NINE- SMUGGLING
(18 U.S.C. §§ 554 and 2)

1. The allegations set forth in paragraph 1(a) and 3 through 7 of Count One of this Superseding Information are re-alleged and incorporated herein.

2. From on or about April 10, 2012, through on or about January 24, 2013, in the Eastern District of Texas, and elsewhere, the defendant,

ZHIFEI LI,

fraudulently and knowingly exported and sent from the United States merchandise, namely five raw rhinoceros horns, contrary to laws and regulations of the United States, and received, concealed, bought, sold, and facilitated the transportation, concealment, and sale of such merchandise, prior to exportation, knowing that such merchandise was intended for exportation contrary to laws and regulations of the United States by: (1) exporting CITES-protected wildlife without a valid CITES export permit issued by the United States in violation of the ESA (Title 16, United States Code, Section 1538(c)(1)), and Title 50, Code of Federal Regulations, Sections 23.13 and 23.20; and (2) failing to declare such merchandise to officials of the USFWS, in violation of Title 50, Code of Federal Regulations, Section 14.63.

In violation of Title 18, United States Code, Sections 554
and 2.

COUNT TEN — FALSE RECORD
(16 U.S.C. §§ 3372(d) and 3373(d)(3)(A)(i),
and 18 U.S.C. § 2)

1. The allegations set forth in paragraph 1(a) and 3 through 7 of Count One of this Superseding Information are re-alleged and incorporated herein.

2. On or about January 24, 2013, in the Eastern District of Texas, and elsewhere, the defendant,

ZHIFEI LI,

knowingly made and submitted, and caused to be made and submitted, a false record, account, and label for, and false identification of, wildlife, namely, a Customs Declaration and Dispatch Note, stating that a package to be delivered by the United States Postal Service to Hong Kong contained porcelain, knowing that the package instead contained rhinoceros horn, which was and was intended to be exported from the United States.

In violation of Title 16, United States Code, Sections 3372(d) and 3373(d)(3)(A)(i) and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION — SMUGGLING
(Counts 1, 2, 4, 5, 6, 8, and 9)

1. The allegations contained in all paragraphs of Counts 1, 2, 4, 5, 6, 8 and 9 of this Superseding Information are hereby re-alleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461.

2. The United States hereby gives notice to the defendant, upon conviction of the offenses charged in Counts 1, 2, 4, 5, 6, 8 and 9 of this Superseding Information, the government will seek forfeiture, in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the aforesaid violations of Title 18, United States Code, Section 554, and the conspiracy to violate Title 18, United States Code, Section 554, as alleged in Counts 1, 2, 4, 5, 6, 8 and 9 of this Superseding Information, including, but not limited to, a sum of money in the amount of \$3.5 million, representing the property constituting or derived, directly or indirectly, from proceeds traceable to such violations.

FORFEITURE ALLEGATION – LACEY ACT WILDLIFE TRAFFICKING
(Counts 1 and 3)

1. The allegations contained in all paragraphs of Counts 1 and 3 of this Superseding Information are hereby re-alleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 16, United States Code, Section 3372 and Title 28, United States Code, Section 2461.

2. The United States hereby gives notice to the defendant, upon conviction of the offenses charged in Counts 1 and 3 of this Superseding Information, the government will seek forfeiture, in accordance with Title 16, United States Code, Section 3374 and Title 28, United States Code, Section 2461(c), of any and all wildlife imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of Title 16, United States Code, Section 3372, and the regulations issued pursuant thereto.

Substitute Assets Provision

3. If any of the property described in the smuggling and Lacey Act forfeiture allegations set forth above, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with,
a third party;

c. has been substantially diminished in value; or

d. has been commingled with other property which cannot
be divided without difficulty;

the United States of America will be entitled to forfeiture of
substitute property up to the value of the property described in
the forfeiture allegations set forth above, pursuant to Title 21,
United States Code, Section 853(p), as incorporated by Title 28,
United States Code, Section 2461(c).



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RESOURCES DIVISION
U.S. DEPARTMENT OF JUSTICE

CASE NUMBER: _____

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SUPERSEDING INFORMATION FOR

18 U.S.C. § 371

18 U.S.C. § 554

18 U.S.C. § 2

16 U.S.C. §§ 3372(a)(1) and 3373(d)(1)(A)

16 U.S.C. §§ 3372(d) and 3373(d)(3)(A)(i)

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