

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 11-  
v. :  
DO YOUNG LEE, a/k/a “Nick Lee” : 18 U.S.C. §§ 545 and 1956; and § 2 and  
26 U.S.C. § 7201

**INFORMATION**

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

At all times relevant to this Information:

**GENERAL ALLEGATIONS**

**Background**

1. Defendant DO YOUNG LEE, a/k/a “Nick Lee” was a resident of Medford, New Jersey.
2. Defendant DO YOUNG LEE, a/k/a “Nick Lee” was the proprietor/owner of Morning Calm International, Inc. (“Morning Calm” or “MCI”), a Pennsylvania Corporation with its principal office in Upper Darby, Pennsylvania and a warehouse in Philadelphia, Pennsylvania.
3. MCI was engaged in the business of importing, into and through the District of New Jersey and elsewhere, and reselling Cheungpung Soju, which is a distilled spirit manufactured in Korea.
4. Soju was an alcoholic beverage with origins in Korea. The main ingredient was rice, almost always in combination with other ingredients such as wheat, barley, or sweet

potatoes. Soju was clear-colored and typically varied in alcohol content from about 40 to about 90 proof (from 20 to 45% alcohol by volume, respectively).

#### Regulation of Importation of Alcohol

5. Under the Internal Revenue Code of 1986, 26 U.S.C. Chapter 51, all beverages containing at least 0.5 percent alcohol by volume were subject to an excise tax. Under 26 U.S.C. § 5001, all distilled spirits produced in or imported into the United States were taxed at the rate of \$13.50 on each proof gallon. Under 26 U.S.C. § 5041, wines are taxed at \$1.57 or \$3.15 per gallon depending on proof. Also, under 26 U.S.C. § 5005, the distiller or importer of distilled spirits was liable for the taxes imposed thereon. Under 26 U.S.C. § 5114(a)(1), wholesale liquor dealers were required to keep records of receipt and disposition of the liquor. Additionally, under 26 U.S.C. § 5006, distilled spirits smuggled or brought into the United States unlawfully were required to be held, and the internal revenue tax paid at the time of such importation.

6. Any firm or person wishing to engage in the business of importing into the United States, distilled spirits or wines containing at least 7 percent alcohol, or malt beverages was required to first obtain an importer's basic permit from the U.S. Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB). TTB was responsible for administering the Federal Alcohol Administration Act (FAA), 27 U.S.C. §§ 201 et seq. and CFR subchapter A.

7. As part of the permit process, importers were required to complete and file a pre-import application to ensure proper tax classification and that products were manufactured according to federal laws and regulations. Prior to issuing a permit, TTB performed background checks, verified sources of funds and inspected the business premises.

8. The FAA required importers of alcoholic beverage products to obtain certificates

of label approval (COLAs) or certificates of exemption for most alcohol products prior to introducing them into interstate commerce in order to ensure that products were labeled according to federal laws and regulations. A permit was required for each location where the importer planned to conduct business. Importers who also acted as wholesalers were required to obtain an additional permit from TTB.

9. On or about June 7, 2005, defendant DO YOUNG LEE received a permit from TTB to import alcoholic beverages into the United States. In or about August 2005, defendant DO YOUNG LEE, on behalf of MCI, submitted a pre-importation application to the Advertising, Labeling and Formulation Division of TTB, informing TTB that Soju was a distilled spirit and subsequently submitted labels identifying Soju as a distilled spirit for approval by TTB. On or about November 16, 2005, TTB approved the label application for Cheunpung Soju.

#### Importation Process

10. The Department of Homeland Security, Customs and Border Protection (“CBP”) was the agency commissioned to receive and collect excise tax on behalf of the United States Department of Treasury and the Internal Revenue Service at the point of entry (port) for imported goods.

11. An importer of record was the individual or entity liable for duties, taxes, and fees on merchandise imported into the United States. The importer of record was responsible for filing entry documents with the CBP which classified the imported merchandise, identified its value 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.

12. An importer would commonly use a customs broker to facilitate entry of the imported product into the United States. The customs broker relied upon information contained on the invoice, packing list, transportation entry, and manifest that accompanied the product and were typically provided to the broker by the importer of record, to create an entry summary and to determine what duties and tariffs were due and owing on a given import.

13. The customs broker paid, or arranged for the payment of, on behalf of the importer, any duties, taxes, fees, and tariffs due and owing on the imported product, and, ordinarily, CBP then released the product to the importer.

#### The Scheme

14. At various times, defendant DO YOUNG LEE ordered Soju and other liquors from a supplier in Korea. Defendant LEE pre-paid for the Soju and other liquors by wire transfer from MCI's bank account at Citizen's Bank to the Soju supplier's bank account in Korea.

15. Once the Soju was ready for shipment, a "freight forwarder" ensured that the containers arrived in the United States and were subsequently shipped to their final destination.

16. Defendant DO YOUNG LEE and MCI utilized several "customs brokers" to facilitate the importation of the Soju into the United States. The customs brokers were responsible for filing the entry documents with CBP and making declarations to CBP on MCI's behalf. The customs brokers were also responsible for collecting all duties, excise taxes and fees from MCI and making all payments to CBP on MCI's behalf. Defendant DO YOUNG LEE and MCI directed the customs brokers to classify the Soju as rice wine and not a distilled spirit and to present documentation to CBP which falsely reflected that the importation was wine and not a distilled spirit.

17. Defendant DO YOUNG LEE caused the various customs brokers to remit funds to CBP that were calculated based on the importation of rice wine and thereby taxed at a lower rate.

18. Once the Soju arrived at its final destination, defendant DO YOUNG LEE and MCI were required to maintain records of acquisition and disposition.

19. After importing Soju into the United States, defendant DO YOUNG LEE and MCI sold Cheungpung Soju to various restaurants and distributors throughout Pennsylvania, New Jersey, Maryland, Georgia and California, many of them unlicensed to sell alcohol.

COUNT 1  
[18 U.S.C. § 545 - Smuggling]

1. Paragraphs 1 through 19 of the General Allegations are incorporated as if set forth at length herein.

2. From in or about December 2005 to in or about February 2008, in the District of New Jersey, defendant

DO YOUNG LEE, a/k/a "Nick Lee,"

willfully and knowingly and with intent to defraud the United States, did smuggle and clandestinely introduce into the United States merchandise which should have been invoiced, that is, 14 shipments of Soju, a Korea distilled spirit of an approximate value of \$2,051,280.

In violation of Title 18, United States Code, Section 545.

COUNT 2  
**[18 U.S.C. § 1956 - Money Laundering]**

1. Paragraphs 1 through 19 of the General Allegations are incorporated as if set forth at length herein.

2. From in or about December 2005 to in or about February 2008, in the District of New Jersey, and elsewhere, defendant

DO YOUNG LEE, a/k/a “Nick Lee,”

did transmit and transfer and attempt to transmit and transfer funds, that is, wire transfers from Morning Calm International’s bank account at Citizen’s Bank to Korea, from a place in the United States, that is, New Jersey, to a place outside the United States, that is, Korea, with the intent to promote the carrying on of specified unlawful activity, that is, smuggling.

In violation of Title 18, United States Code, Section 1956(a)(2)(A) and Title 18, United States Code, Section 2.

COUNT 3  
[26 U.S.C. § 7201 - Evasion of Excise Tax]

1. Paragraphs 1 through 19 of the General Allegations are incorporated as if set forth at length herein.

2. From in or about December 2005 to in or about February 2008, in the District of New Jersey, defendant

DO YOUNG LEE, a/k/a "Nick Lee,"

did knowingly, wilfully, and unlawfully attempt to evade and defeat and aided, abetted, counseled, commanded, induced and procured and caused the evasion and defeat of federal excise taxes of approximately \$101,818 due and owing from Morning Calm International Inc., to the United States of America for the importation of Soju from Korea by submitting false Entry Summaries to the Customs and Border Protection in Newark, New Jersey and elsewhere.

In violation of Title 26, United States Code, Section 7201 and Title 18, United States Code, Section 2.

  
PAUL J. FISHMAN  
United States Attorney

CASE NUMBER: 11-

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**United States District Court  
District of New Jersey**

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**UNITED STATES OF AMERICA**

**v.**

**DO YOUNG LEE**

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**INFORMATION FOR**

**18 U.S.C. § 545  
18 U.S.C. § 1956  
26 U.S.C. § 7201  
18 U.S.C. § 2**

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**PAUL J. FISHMAN.**  
*U.S. ATTORNEY NEWARK, NEW JERSEY*

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