

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA :

- v - :

INDICTMENT

ISIDORO GARBARINO, :
a/k/a "Mario Garbarino," :

87 Cr.

Defendant. :

- - - - -X

COUNT ONE

THE CUSTOMS FRAUD CONSPIRACY

The Grand Jury charges:

1. From on or about June 27, 1984, up to and including on or about June 2, 1987, in the Southern District of New York and elsewhere, ISIDORO GARBARINO, a/k/a "Mario Garbarino," the defendant, unlawfully, wilfully, and knowingly did combine, conspire, confederate and agree with other persons, known and unknown to the Grand Jury, to commit certain offenses against the United States, to wit, to violate Sections 541, 542 and 545 of Title 18, United States Code.

OBJECTS AND MEANS OF THE CONSPIRACY

2. It was a part and object of the conspiracy that ISIDORO GARBARINO, a/k/a "Mario Garbarino," the defendant, and his co-conspirators, unlawfully, wilfully and knowingly, would and did smuggle large quantities of Russian and Iranian caviar

into the United States, for sale domestically to customers of Aquamar Gourmet Imports, Inc. ("Aquamar"), a company located at 690 East 133rd Street, Bronx, New York, of which GARBARINO, the defendant, was the owner and president.

3. It was a further part and object of the conspiracy that ISIDORO GARBARINO, a/k/a "Mario Garbarino," the defendant, and his co-conspirators, unlawfully, wilfully, and knowingly, would and did, effect the entry of goods and merchandise, to wit, over one hundred thousand pounds of Russian and Iranian caviar with a wholesale value of over ten million dollars, at less than the true weights and measures thereof and upon false classifications as to value, and by the payment of less than the amount of duty legally due, in violation of Title 18, United States Code, Section 541.

4. It was a further part and object of the conspiracy that ISIDORO GARBARINO, a/k/a "Mario Garbarino," the defendant, and his co-conspirators, unlawfully, wilfully, and knowingly, would and did enter and introduce and attempt to enter and introduce into the commerce of the United States imported merchandise, to wit, over one hundred thousand pounds of Russian and Iranian caviar with a wholesale value of over ten million dollars, by means of fraudulent and false invoices, declarations, letters, statements and practices and by false statements in declarations made without reasonable cause to believe the truth

of such statements, in violation of Title 18, United States Code, Section 542.

5. It was a further part and object of the conspiracy that ISIDORO GARBARINO, a/k/a "Mario Garbarino", the defendant, and his co-conspirators, unlawfully, wilfully, knowingly, and fraudulently would and did import and bring into the United States contrary to law and would and did receive, conceal, sell and facilitate the transportation, concealment and sale of merchandise after importation, to wit, over one hundred thousand pounds of Russian and Iranian caviar with a wholesale value of over ten million dollars, knowing the same to have been imported and brought into the United States contrary to law, in violation of Title 18, United States Code, Section 545.

OVERT ACTS

6. In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

(a) On or about May 23, 1987, ISIDORO GARBARINO, a/k/a "Mario Garbarino," ordered 154 cases of Iranian caviar from Shilat Trading Corp. ("Shilat"), including 129 cases which were to be preserved with boric acid, also known as borax, by sending a telex from Aquamar's offices to the offices of Shilat.

(b) On or about May 28, 1987, ISIDORO GARBARINO, a/k/a "Mario Garbarino," received at Aquamar's offices a telex

from Shilat confirming that 155 cases of Iranian caviar would be sent from Tehran Airport to New York via Frankfurt, West Germany, on June 1, 1987, and that the total net weight of the shipment would be 3134.454 kilograms (6,895 lbs.) with a total value of \$584,337.01.

(c) On or about June 2, 1987, ISIDORO GARBARINO, a/k/a "Mario Garbarino," prepared or caused others to prepare and file with the U.S. Customs Service a U.S. Customs transport entry form stating that Aquamar would receive a shipment of 155 cases of Iranian caviar on June 1, 1987, from Frankfurt, West Germany, with a total weight of 313 lbs. and a value of \$19,000.00.

(d) On or about June 2, 1987, ISIDORO GARBARINO, a/k/a "Mario Garbarino," brought or caused the 155 cases of Iranian caviar to be brought to Aquamar's offices and warehouse located at 690 East 133rd Street, Bronx, New York, for subsequent sale to domestic customers.

(Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

7. From on or about June 27, 1984, up to and including on or about June 2, 1987, in the Southern District of New York and elsewhere, ISIDORO GARBARINO, a/k/a "Mario Garbarino," the defendant, unlawfully, wilfully, and knowingly did effect the entry of goods and merchandise, to wit, over one

hundred thousand pounds of Russian and Iranian caviar with a wholesale value of over ten million dollars, at less than the true weights and measures thereof and upon false classifications as to value, and by the payment of less than the amount of duty legally due.

(Title 18, United States Code, Section 541.)

COUNT THREE

The Grand Jury further charges:

8. From on or about June 27, 1984, up to and including on or about June 2, 1987, in the Southern District of New York and elsewhere, ISIDORO GARBARINO, a/k/a "Mario Garbarino," the defendant, unlawfully, wilfully, and knowingly did enter and introduce and attempt to enter and introduce into the commerce of the United States imported merchandise, to wit, over one hundred thousand pounds of Russian and Iranian caviar with a wholesale value of over ten million dollars, by means of fraudulent and false invoices, declarations, letters, statements and practices and by false statements in declarations made without reasonable cause to believe the truth of such statements, to wit, GARBARINO, the defendant, falsely represented and caused others falsely to represent the destination, weight, and value of the caviar imported.

(Title 18, United States Code, Section 542.)

COUNTS FOUR THROUGH EIGHTY-TWO

The Grand Jury further charges:

9. On or about the dates set forth below, in the Southern District of New York and elsewhere, ISIDORO GARBARINO, a/k/a "Mario Garbarino," the defendant, unlawfully, wilfully, knowingly, and fraudulently did import and bring into the United States merchandise contrary to law, to wit, Russian and Iranian caviar described below, and did receive, conceal and sell and facilitate the transportation, concealment and sale of such merchandise after importation knowing the same to have been imported and brought into the United States contrary to law:

<u>COUNT</u>	<u>APPROXIMATE DATE OF IMPORTATION</u>	<u>APPROXIMATE AMOUNT OF CAVIAR IMPORTED</u>
FOUR	June 27, 1984	31 cases
FIVE	July 13, 1984	15 cases
SIX	July 18, 1984	27 cases
SEVEN	August 1, 1984	16 cases
EIGHT	August 15, 1984	36 cases
NINE	August 22, 1984	18 cases
TEN	September 6, 1984	25 cases
ELEVEN	September 13, 1984	17 cases
TWELVE	September 24, 1984	28 cases
THIRTEEN	October 1, 1984	20 cases
FOURTEEN	October 9, 1984	28 cases

<u>COUNT</u>	<u>APPROXIMATE DATE OF IMPORTATION</u>	<u>APPROXIMATE AMOUNT OF CAVIAR IMPORTED</u>
FIFTEEN	October 22, 1984	23 cases
SIXTEEN	October 29, 1984	19 cases
SEVENTEEN	November 12, 1984	26 cases
EIGHTEEN	November 19, 1984	37 cases
NINETEEN	November 26, 1984	29 cases
TWENTY	December 4, 1984	38 cases
TWENTY-ONE	December 17, 1984	46 cases
TWENTY-TWO	December 31, 1984	14 cases
TWENTY-THREE	January 18, 1985	16 cases
TWENTY-FOUR	February 4, 1985	24 cases
TWENTY-FIVE	February 6, 1985	7 cases
TWENTY-SIX	March 29, 1985	50 cases
TWENTY-SEVEN	April 4, 1985	8 cases
TWENTY-EIGHT	May 3, 1985	8 cases
TWENTY-NINE	May 17, 1985	9 cases
THIRTY	June 7, 1985	40 cases
THIRTY-ONE	June 25, 1985	25 cases
THIRTY-TWO	July 2, 1985	15 cases
THIRTY-THREE	July 9, 1985	40 cases
THIRTY-FOUR	July 22, 1985	55 cases
THIRTY-FIVE	July 31, 1985	25 cases
THIRTY-SIX	August 8, 1985	27 cases
THIRTY-SEVEN	August 14, 1985	18 cases

<u>COUNT</u>	<u>APPROXIMATE DATE OF IMPORTATION</u>	<u>APPROXIMATE AMOUNT OF CAVIAR IMPORTED</u>
THIRTY-EIGHT	August 23, 1985	70 cases
THIRTY-NINE	September 17, 1985	17 cases
FORTY	October 10, 1985	77 cases
FORTY-ONE	October 11, 1985	25 cases
FORTY-TWO	October 26, 1985	43 cases
FORTY-THREE	November 13, 1985	10 cases
FORTY-FOUR	November 16, 1985	83 cases
FORTY-FIVE	December 18, 1985	6 cases
FORTY-SIX	December 29, 1985	36 cases
FORTY-SEVEN	January 17, 1986	45 cases
FORTY-EIGHT	February 18, 1986	3 cases
FORTY-NINE	March 21, 1986	8 cases
FIFTY	March 28, 1986	44 cases
FIFTY-ONE	April 5, 1986	3 cases
FIFTY-TWO	April 11, 1986	27 cases
FIFTY-THREE	April 26, 1986	16 cases
FIFTY-FOUR	May 23, 1986	41 cases
FIFTY-FIVE	June 21, 1986	80 cases
FIFTY-SIX	July 13, 1986	75 cases
FIFTY-SEVEN	August 8, 1986	163 cases
FIFTY-EIGHT	August 29, 1986	216 cases
FIFTY-NINE	October 3, 1986	80 cases
SIXTY	October 15, 1986	5 cases

<u>COUNT</u>	<u>APPROXIMATE DATE OF IMPORTATION</u>	<u>APPROXIMATE AMOUNT OF CAVIAR IMPORTED</u>
SIXTY-ONE	October 28, 1986	33 cases
SIXTY-TWO	November 18, 1986	27 cases
SIXTY-THREE	November 22, 1986	26 cases
SIXTY-FOUR	November 29, 1986	8 cases
SIXTY-FIVE	December 19, 1986	15 cases
SIXTY-SIX	December 24, 1986	26 cases
SIXTY-SEVEN	May 29, 1985	47 cases
SIXTY-EIGHT	January 10, 1987	12 cases
SIXTY-NINE	January 14, 1987	6 cases
SEVENTY	January 27, 1987	37 cases
SEVENTY-ONE	February 21, 1987	14 cases
SEVENTY-TWO	March 2, 1987	40 cases
SEVENTY-THREE	March 6, 1987	30 cases
SEVENTY-FOUR	March 10, 1987	11 cases
SEVENTY-FIVE	March 17, 1987	10 cases
SEVENTY-SIX	April 1, 1987	13 cases
SEVENTY-SEVEN	April 2, 1987	30 cases
SEVENTY-EIGHT	April 14, 1987	58 cases
SEVENTY-NINE	May 1, 1987	77 cases
EIGHTY	May 11, 1987	70 cases
EIGHTY-ONE	May 29, 1987	24 cases
EIGHTY-TWO	June 2, 1987	155 cases

(Title 18, United States Code, Section 545.)

COUNTS EIGHTY-THREE THROUGH EIGHTY-FIVE

The Grand Jury further charges:

10. From on or about June 27, 1984, up to and including on or about June 2, 1987, in the Southern District of New York and elsewhere, ISIDORO GARBARINO, a/k/a "Mario Garbarino," the defendant, and others known and unknown to the Grand Jury, unlawfully, wilfully and knowingly did devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

11. It was a part of the scheme and artifice to defraud that ISIDORO GARBARINO, a/k/a "Mario Garbarino," and his co-schemers would and did sell to Pan American World Airways, Inc. ("Pan Am") lesser quality Russian Sevruga or American caviar, while falsely representing to Pan Am that Pan Am was purchasing Russian Beluga premium quality caviar.

12. It was a further part of the scheme and artifice to defraud the ISIDORO GARBARINO, a/k/a "Mario Garbarino," and his co-schemers, would and did sell to Pan Am such lesser quality caviar at the higher prices applicable to such premium quality caviar.

13. It was a further part of the scheme and artifice to defraud that ISIDORO GARBARINO, a/k/a "Mario Garbarino," and his co-schemers would and did prepare and submit and cause to be

prepared and submitted invoices for the sale of Russian Beluga caviar to Pan Am, which failed to disclose and concealed the fact that the caviar actually sold to Pan Am was in fact Russian Sevruga or American caviar.

14. On or about the dates set forth below, in the Southern District of New York and elsewhere, ISIDORO GARBARINO, a/k/a "Mario Garbarino," the defendant, and others known and unknown to the Grand Jury, unlawfully, wilfully, and knowingly, and for the purpose of executing and attempting to execute the scheme and artifice to defraud as set forth in paragraphs 10 through 13 above, did place and cause to be placed in post offices and authorized depositories for mail matter, and did cause to be delivered according to the directions thereon, certain mail matter to be sent and delivered by the United States Postal Service as specified below:

<u>COUNT</u>	<u>APPROXIMATE DATE OF MAILING</u>	<u>DESCRIPTION OF ITEMS MAILED</u>
EIGHTY-THREE	June 7, 1985	Aquamar Gourmet Imports, Inc., invoice numbers 7658, 7660, 7662, 7665 and 7667 in the amounts \$3,982.50, \$18,561.00, \$6,615.00, \$11,907.00, and \$10,584.00, respectively, addressed to Pan American World Airways, Inc.
EIGHTY-FOUR	November 18, 1985	Aquamar Gourmet Imports, Inc., invoice number 10081 in the amount of \$11,245.50 addressed to Pan American World Airways, Inc.

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<u>COUNT</u>	<u>APPROXIMATE DATE OF MAILING</u>	<u>DESCRIPTION OF ITEMS MAILED</u>
EIGHTY-FIVE	March 31, 1986	Aquamar Gourmet Imports, Inc. invoice number 778 in the amount of \$9,922.50, addressed to Pan American World Airways Inc.,

(Title 18, United States Code, Section 1341 and 2.)

FOREPERSON

RUDOLPH W. GIULIANI
United States Attorney