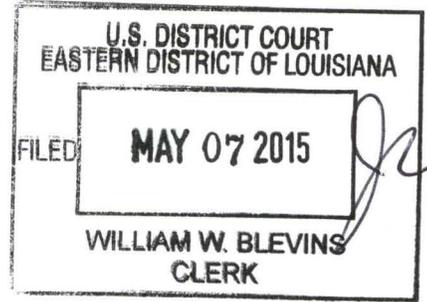


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA



UNITED STATES OF AMERICA

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CRIMINAL NO.: 15-80

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V.

*

SECTION: G MAG 5

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GARCIA SHRIMP CO. LLC

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JOINT FACTUAL BASIS

Defendant, Garcia Shrimp Co., LLC (“Company”), explicitly adopts the following facts as true and correct. The parties acknowledge that the facts below are not the entirety of facts the Government would have available to meet its burden at trial, nevertheless, should this matter proceed to trial, the parties stipulate that the following facts would be established beyond a reasonable doubt through competent evidence and testimony:

At all times relevant to the Bill of Information:

1. The defendant Company was a Texas limited liability company headquartered in Brownsville, Texas. Raul Labin Garcia was the president of the Company and its majority shareholder. The Company was in the business of acquiring shrimp from vessels and selling that shrimp to businesses in Louisiana and other states. During 2012, the Company had a facility at the Brownsville Shrimp Basin that included a dock, a large scale for weighing seafood, loading equipment, and refrigeration equipment.

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2. As a general matter, the Company's criminal liability is established through the acts and omissions of its employees and agents. With regard to this Joint Factual Basis, the Company admits that it is criminally liable because its employees and agents acted within the scope of their employment or agency for the benefit of the Company.

3. On or about October 1, 2012, two Mexican businessmen, Jose Ismael Fernandez Morales and Fernando Gutierrez Requejo, imported 35,000 pounds of frozen Mexican shrimp into the United States. The shrimp were held in a cold storage facility in Brownsville, Texas. Morales and Requejo had difficulty selling the shrimp. During October 2012, in Texas and especially for wholesale customers in Louisiana, shrimp that was wild caught on U.S. vessels in U.S. waters would command a higher price. For customers in Louisiana, it was rare for wholesalers to even consider purchasing non-U.S. shrimp due to concerns over its marketability in Louisiana. Common industry understanding was that Louisiana consumers wanted to buy U.S. shrimp. The defendant Company primarily dealt with one shrimp wholesaler in New Orleans; the Company knew that its primary customer in New Orleans would not purchase Mexican shrimp.

4. On or about October 8 to October 9, 2012, after unsuccessfully trying to sell the Mexican shrimp, Requejo and Morales sold the shrimp to defendant Company. Before leaving the cold storage facility, labels indicating that the shrimp originated from Mexico were removed from the shrimp pallets, although the shrimp remained packaged in plastic crates associated with the Mexican supermarket business. *See* photo on following page. The crates contained labels such as "Pollo Supermercado" and other Spanish writing. The Company knew that the 35,000 pounds of shrimp came from Mexico.



Photo 1. Plastic Crates of Mexican Shrimp.



Photo 2. Mexican Supermarket Labels on the Shrimp Crates.

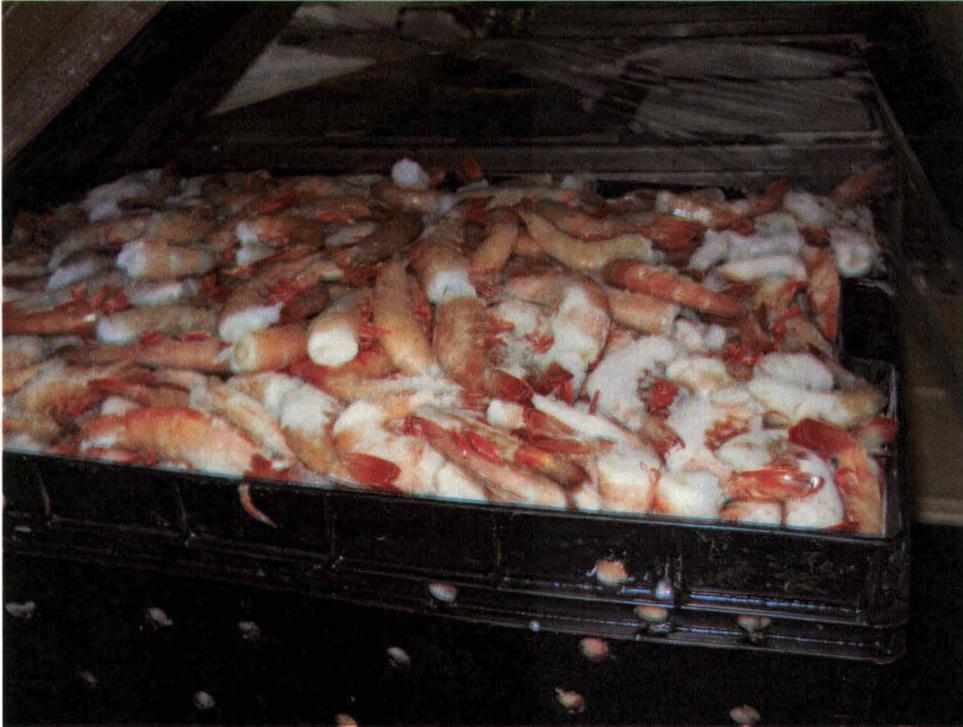


Photo 3. Frozen Mexican Shrimp Purchased by Garcia Shrimp Co., LLC

5. On or about October 9 to October 10, 2012, the shrimp was trucked from the cold storage facility to the Company's facility at the Brownsville Shrimp Basin. Company personnel unloaded the shrimp and re-weighed the shrimp on the Company's scale. The Company then re-wrapped the shrimp pallets in plastic and included tags purporting to show the weight and the harvest vessel, a Texas-licensed shrimper, the *Regio* (Boat License #0991). In 2012, the *Regio* docked at a facility that was adjacent to the Company's facility. However, the shrimp was not caught on the *Regio*. It was caught in Mexico on a different vessel.

6. On or about October 9 to October 11, 2012, the Company sold the 35,000 pounds of Mexican shrimp to its wholesale customer in New Orleans. The 35,000 pounds of shrimp was split into two trucking shipments that traveled in interstate commerce, on or about October 9 to

October 11, 2012, from Brownsville to New Orleans. On or about October 9 to October 11, 2012, the Company created four additional false records to make it appear as if the shrimp was caught on the U.S. vessel *Regio*. The Company created two false unloading tickets and two false bills of lading, each set addressed in turn. One of the services that the Company offered to vessels that unloaded at its dock was the preparation of state “trip tickets,” which are records of shrimp landings required by Texas law. Texas Parks and Wildlife Code, Title 5, Section 66.019; Texas Administrative Code, Title 31, Rule 58.150. In order to prepare the state trip ticket, the Company has its own form called an unloading ticket. The unloading tickets contained information such as vessel name, license number, vessel captain, pallet number, and pallet weight. The vessel captain was supposed to sign the unloading ticket. The Company unloading tickets traveled with the shrimp as part of paperwork that accompanied the shipments across state lines. The unloading tickets accompanied the shipments because if truthful, they would have substantiated the origin of the seafood, thus reducing delays and confusion should the trucks have been stopped or inspected by the highway patrol or agricultural authorities. In order to make it appear that the shrimp was caught on the *Regio*, the Company fabricated two unloading tickets dated October 9 and 10, 2012, ticket nos. 12-0404 and 12-0408 respectively. The *Regio* captain did not sign the unloading tickets.

7. To further the illusion that the shrimp was not Mexican and was caught on the domestic vessel *Regio*, on or about October 9 through October 11, 2012, the Company created two false bills of lading. Each bill of lading falsely represented that the Mexican shrimp had

been caught by the *Regio* and was “Product of U.S.A., Wild Caught Gulf Shrimp.” The bills of lading accompanied the shipments of shrimp.

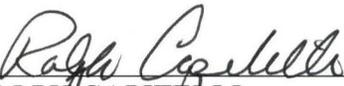
8. In the course of the National Oceanic and Atmospheric Administration’s (“NOAA”) investigation into the false labeling of the Mexican shrimp, NOAA seized, forfeited, and auctioned the shrimp pursuant to its authority under the Lacey Act, 16 U.S.C. §§ 3374, 3375. The auction took place on or about November 26, 2012. Through a sealed bid process, the 35,000 pounds of shrimp were sold to a buyer in Illinois for \$120,800. The parties stipulate that \$120,800 is the market value of the shrimp.

The above Joint Factual Basis Read and Approved:



RAUL L. GARCIA
President of Garcia Shrimp Co., LLC
and authorized representative

3/8/2015
Date



RALPH CAPITELLI
Attorney for the defendant

5/7/2015
Date



CHRISTOPHER L. HALE
Environmental Crimes Trial Attorney
U.S. Department of Justice

May 7, 2015
Date



SPIRO G. LATSIS
Assistant United States Attorney
Eastern District of Louisiana

5.7.2015
Date