

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
3 CENTRAL ISLIP

4 -----X

5 UNITED STATES OF AMERICA,

6 - against -

7 MARK PARENTE and LOU'S FISH
8 MARKET, INC.,

9 Defendants.

10 -----X INFORMATION

11 Cr. No. _____

12 (T. 18, U.S.C., §§ 1341,1343, 1519,
13 and 2; T. 16, U.S.C. §§ 3372(d)(2),
14 3373(d)(3)(A)(ii))

15 THE ASSISTANT ATTORNEY GENERAL OF THE ENVIRONMENT
16 AND NATURAL RESOURCES DIVISION OF THE UNITED STATES
17 DEPARTMENT OF JUSTICE CHARGES:

18 At all times material to this Bill of Information, and incorporated by reference in all counts:

19 **A. The Defendants**

20 1. There is one individual defendant and one organizational defendant. Defendant
21 LOU'S FISH MARKET, INC. ("LFM") was a corporation organized under the laws of the State
22 of New York. LFM was located at 800 Food Center Drive, Bronx, NY. Defendant LFM was a
23 federally-permitted fish dealer, which meant that the company could purchase seafood directly
24 from federally-permitted fishing vessels without going through an intermediary. As such, LFM
25 purchased fish directly from commercial fishing vessels, which the company then sold to other
26 seafood and supermarket businesses in New York and neighboring states. The charges in this
27 case stem from LFM's and its president's participation in a scheme to buy over-quota,
28 unreported, and illegal summer flounder ("fluke"), scup, and black sea bass, from two different
fishermen who operated trawlers out of Long Island. Fisherman X, as of yet uncharged, operated

1 a vessel from the southern shore of Nassau County, New York. Fisherman Y, also uncharged as
2 of yet, operated his vessel out of the North Fork area of Suffolk County, New York.
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4 2. Defendant MARK PARENTE (“PARENTE”) was a resident of Englishtown, New
5 Jersey. PARENTE was the president and controlling shareholder of LFM. PARENTE had an
6 active role in the operation of LFM, including the company’s dealings with Fisherman X and
7 Fisherman Y.
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9 **B. Legal Framework**

10 3. The commercial fishing industry is regulated by both state and federal authorities.
11 Operators of fishing vessels must comply with restrictions such as closed areas, seasonal access,
12 gear restrictions, and limits on the quantity or weight of fish caught, *e.g.*, quotas. In order to
13 ensure a sustainable fishery for a particular species, the National Oceanic and Atmospheric
14 Administration (“NOAA”), in fulfilling its mandates under the Magnuson-Stevens Fishery
15 Conservation and Management Act (“Magnuson-Stevens”), 16 U.S.C. § 1801 *et seq.*, allocates
16 certain catch shares to states within a predetermined region. During 2011, New York was part of
17 the Northeast Region for share allocation of fluke, scup, and black sea bass. *See* 50 C.F.R. §
18 648.102(c)(1).
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20 4. Once the New York catch share is established by federal authorities, New York
21 establishes its own quota system for commercial fishing vessels that are based out of New York
22 ports. For fluke, scup, and black sea bass, New York set a daily trip limit on regulated vessels.
23 This means that a fishing vessel was confined to a hard limit of a certain weight of each species
24 of fish per day.
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26 5. It is difficult for fisheries managers to directly observe what fishers are doing out on
27 the water, and as such, fishing vessels are required to comply with various reporting
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1 requirements. One such requirement is that vessels must complete a Fishing Vessel Trip Report
2 (“FVTR”) at the end of each trip. 50 C.F.R. § 648.7(b)(1)(i). The FVTR requires information
3 such as date, vessel name, permit number, Coast Guard document number, gear used, species
4 caught, species weight, number of hauls, port of landing, and if available, identity of the fish
5 purchaser(s) (dealers). Vessel operators are required to sign the FVTR under a text box that
6 reads, “I certify that the information provided on this form is true, complete and correct to the
7 best of my knowledge, and made in good faith. Making a false statement on this form is
8 punishable by law (18 U.S.C. [§] 1001).” Fisherman X’s vessel, which held a Northeast
9 multispecies permit, was required to mail federal FVTRs to a NOAA office in Massachusetts on
10 a weekly basis. 50 C.F.R. § 648.7(f)(2). Fisherman Y’s vessel had to complete New York State
11 FVTRs.

14 6. A fishing vessel located in New York that was targeting fluke, scup, or black sea bass
15 was limited to the daily maximum catch set by the daily trip limit. However, NOAA provided an
16 alternative pathway for a fishing vessel to increase its overall annual catch. By participating in
17 the Research Set-Aside Program, or “RSA” Program, a fishing vessel had the opportunity to bid
18 on additional quota of fluke, scup, or black sea bass. Assuming the vessel submitted a successful
19 bid, the vessel would receive a set amount of additional quota that it could use throughout the
20 calendar year without regard to the daily trip limit. For example, if a vessel purchased an extra
21 10,000 pounds of quota, it could have one very lucky day and expend the entire RSA quota, or it
22 could use some of the quota in bits and pieces throughout the year.

25 7. The presence of a lump sum of quota, in contrast to a relatively modest daily trip limit,
26 provided an opportunity for the unscrupulous operator to manipulate the system. Put another
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1 way, the RSA Program provided criminal operators with a mask for their illegal conduct
2 regarding state fluke, scup, and black sea bass quotas.

3 8. Participants in the RSA Program were required to declare on their FVTRs what
4 portion of their catch was allocated to the daily trip limit, and after that was exceeded, what
5 portion was allocated to their RSA quota.

6 9. First purchasers of seafood from federally-licensed vessels are known as fish dealers.
7 Fish dealers must report all of the seafood that they purchase regardless of whether the product
8 originated from a federal or state-licensed vessel. NOAA requires that fish dealers submit
9 weekly, electronic reports detailing information about the fish purchased. In order to submit the
10 reports, the dealer must log onto a NOAA website using a username and password. 50 C.F.R. §
11 648.7(a)(1), 648.7(f). The website is maintained by a NOAA contractor, and the contractor
12 forwards the dealer information to NOAA through a website that is available to designated
13 NOAA components. NOAA components in Maryland, Massachusetts, and Suffolk County, New
14 York, would have accessed this data as part of official NOAA business. NOAA is able to
15 generate reports from the dealer website.

16 10. Dealers must provide information about a variety of species including summer
17 flounder, squid, black sea bass, scup, hake, and bluefish. The dealer reports relayed information
18 such as date of landing, port of landing, catch vessel, corresponding FVTR numbers, commercial
19 grade, species, price, and weight. NOAA utilizes the dealer reports as a check on the information
20 submitted in FVTRs, as well as a source of information used in fisheries management.

21 11. Because the dealer reports identify the catch vessel and corresponding FVTR, a
22 mismatch between the dealer report and the FVTR is evidence of a serious mistake or some
23 fraudulent conduct. Therefore, in order to perpetuate an ongoing fraud, there needs to be some
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1 level of collusion between vessel operator (Fisherman X or Fisherman Y) and dealer (LFM), lest
2 a fisheries regulator discover the error(s) and take corrective or enforcement action.

3 12. Pursuant to Magnuson-Stevens, NOAA has a property interest in “any fish (or the
4 fair market value thereof) taken or retained, in any manner, in connection with or as a result of
5 the commission of any act prohibited by [a Magnuson-Stevens regulation].” 16 U.S.C. §
6 1860(a). Magnuson-Stevens regulations make it unlawful for any person to “[m]ake any false
7 statement or provide any false information on, or in connection with, an application, declaration,
8 record or report under this part [Magnuson-Stevens regulations].” 50 C.F.R. § 648.14(a)(5); *see*
9 *also* 50 C.F.R. §§ 600.725(l), 648.14(a)(6); *United States v. Oceanpro Industries, Ltd.*, 673 F.3d
10 323, 331-332 (4th Cir. 2012) (Maryland has a property interest in striped bass that could have
11 been forfeited under state’s fishing laws); *United States v. Bengis*, 631 F.3d 33, 38-40 (2d Cir.
12 2011) (governmental entity has a property interest in seafood that was subject to forfeiture and
13 sale under fisheries regulations).

14 13. Among its many purposes, the Lacey Act, 16 U.S.C. §§ 3371-3378, is a federal
15 statute designed to combat the trafficking and false documentation of wildlife, fisheries, and
16 timber resources that cross state lines and international borders. Under the Lacey Act’s “false
17 labeling” provisions, it is illegal “to make or submit any false record, account, or label for, or any
18 false identification of, any fish...which has been, or is intended to be...transported in interstate
19 or foreign commerce.” 16 U.S.C. § 3372(d)(2). Relevant to the instant matter, a person commits
20 a felony labeling violation if the conduct is knowing, commercial, and the value of the fisheries
21 product exceeds \$350. 16 U.S.C. § 3373(d)(3)(A)(ii).

1 C. Charged Counts

2 **COUNT ONE - Wire Fraud (Fisherman X)**

3 14. **Fraudulent Scheme:** During 2011, PARENTE as an officer and manager of a
4 corporate federal fish dealer, to wit: Lou's Fish Market, Inc., utilized that company to purchase
5 fluke from Vessel X. During 2011, PARENTE knew that the vessel's captain, Fisherman X, was
6 knowingly and unlawfully harvesting fluke and was also failing to report the fluke on his
7 vessel's FVTRs. In order to conceal and cover up Vessel X's illegal harvest of fluke and to
8 enable PARENTE to continue to purchase the unreported fluke on behalf of his company,
9 PARENTE knowingly schemed and planned to file false dealer reports with NOAA. PARENTE
10 knowingly coordinated the false dealer reports with the false FVTRs that were prepared and
11 submitted by Fisherman X. The scheme included the communication of catch information
12 between PARENTE and Fisherman X via packing slips, notations, and oral statements. This
13 catch information was passed on during or near in time to offloading operations in Nassau
14 County, New York. Through the use of unwitting intermediaries, PARENTE electronically filed
15 false federal dealer reports that represented that the fish purchased from Vessel X matched what
16 was reported by Fisherman X as caught on the vessel. However, the fish species, species weight,
17 quota designation, and price paid that PARENTE submitted to NOAA on these dealer reports
18 were false. For example, with great frequency PARENTE would falsely identify the fluke as
19 whiting or squid. During the course of the scheme, from May 1, 2011, through December 31,
20 2011, PARENTE transmitted and caused to be transmitted at least 45 separate, false dealer
21 reports. PARENTE also knew that Fisherman X would be submitting a corresponding number of
22 equally false FVTRs to NOAA. NOAA had the legal right to seize and sell fish that was
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1 unreported on federal dealer reports or FVTRs. The State of New York also had the legal right to
2 seize and sell unreported or over-quota fluke.

3 15. On or about May 1, 2011, through December 31, 2011, within the Eastern District of
4 New York, the defendant,

5 MARK PARENTE,

6 did knowingly and intentionally devise a scheme and artifice to defraud NOAA and New York
7 State of fish and the fair market value thereof (to wit: 196,127 pounds of summer flounder
8 (fluke) valued at \$403,000), and to obtain money and property from NOAA and New York State
9 by means of materially false and fraudulent pretenses and representations (to wit: that the fish
10 represented as caught on Federal Vessel Trip Reports and as purchased on federal dealer reports
11 were of a certain species, quantity, quota designation, and weight, when in fact, the fish were not
12 as represented on federal forms, and in fact were in excess of New York State daily trip limits
13 and/or RSA fluke quotas), and for the purpose of executing such scheme and artifice, transmit
14 and cause to be transmitted writings, signs, and signals by means of wire communication in
15 interstate commerce (to wit: the internet submission and transmission of at least 45 federal
16 fisheries dealer reports from a portable computer that at various times was found in New York,
17 New Jersey, and Florida to the NOAA Regional Fisheries Management Office in Gloucester,
18 Massachusetts).

19 All in violation of Title 18, United States Code, Sections 1343, 2, and 3551 *et seq.*

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25 **COUNT TWO - Aiding and Abetting Mail Fraud (Fisherman X)**
26 16. **Fraudulent Scheme:** During the year 2011, Fisherman X captained Vessel X.
27 During 2011, Fisherman X knowingly and unlawfully harvested fluke that was over-quota and
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also unreported on FVTRs. In order to conceal and cover-up his illegal harvest of fluke, Fisherman X, knowingly falsified the vessel's FVTRs. During the course of the scheme, from May 1, 2011, through on or about December 31, 2011, Fisherman X mailed at least 45 separate, false FVTRs to NOAA. PARENTE knew that Fisherman X mailed false FVTRs to NOAA as part of their scheme. NOAA and New York State each had the legal right to seize and sell fish that was unreported on FVTRs.

17. On or about May 1, 2011, through December 31, 2011, within the Eastern District of New York, the defendant,

MARK PARENTE,

did knowingly and intentionally devise a scheme and artifice to defraud NOAA and the State of New York of fish and the fair market value thereof (to wit: 196,127 pounds of summer flounder (fluke) valued at \$403,000), and to obtain money and property from NOAA and the State of New York by means of materially false and fraudulent pretenses and representations (to wit: that the fish represented as caught on Fishing Vessel Trip Reports were a certain species, quantity, quota authorization, and weight, when in fact, the fish were not as represented on federal forms, and in fact were in excess of New York State daily trip limits and/or RSA fluke quotas), and for the purpose of executing such scheme and artifice, did aid and abet Fisherman X placing in any post office and authorized depository for mail matter, any matter and thing whatever to be sent and delivered by the Postal Service (to wit: the mailing of 45 FVTRs from Suffolk County, New York, to NOAA's Regional Fisheries Management Office in Gloucester, Massachusetts).

All in violation of Title 18, United States Code, Sections 1341, 2, and 3551 *et seq.*

COUNT THREE - Wire Fraud (Fisherman Y)

18. Fraudulent Scheme: During 2011, PARENTE as an officer and manager of a corporate federal fish dealer, to wit: Lou's Fish Market, Inc., utilized that company to purchase fluke, scup, and black sea bass from Vessel Y. During 2011, Parente knew that the vessel's captain, Fisherman Y, was knowingly and unlawfully harvesting fluke, scup, and black sea bass and was also failing to report the fluke, scup, and sea bass on his vessel's FVTRs. In order to conceal and cover up Vessel Y's illegal harvest of fluke, scup, and black sea bass and to enable PARENTE to continue to purchase the unreported fluke, scup, and black sea bass on behalf of his company, PARENTE knowingly schemed and planned to file false dealer reports with NOAA. PARENTE knowingly coordinated the false dealer reports with the false FVTRs that were prepared and submitted by Fisherman Y. The scheme included the communication of catch information between PARENTE and Fisherman Y via packing slips, notations, shipping tags, and oral statements. This catch information was passed on during or near in time to offloading operations on the North Fork of Suffolk County, New York. Accordingly, through the use of unwitting intermediaries, PARENTE filed false federal dealer reports that represented that the fish purchased from Vessel Y matched what was reported by Fisherman Y as caught on the vessel. However, the fish species, species weight, quota designation, and price paid that PARENTE submitted to NOAA on these dealer reports were false. During the course of the scheme, from May 1, 2011, through August 1, 2011, PARENTE transmitted and caused to be transmitted at least 33 separate false dealer reports. PARENTE also knew that Fisherman Y would be submitting a corresponding number of equally false FVTRs to New York State and false Research Set-Aside information to NOAA. NOAA had the legal right to seize and sell fish

that was unreported on federal dealer reports. The State of New York also had the legal right to seize and sell unreported and over-quota fluke, scup, and black sea bass.

19. On or about May 1, 2011, through August 1, 2011, within the Eastern District of New York, the defendant,

MARK PARENTE,

did knowingly and intentionally devise a scheme and artifice to defraud NOAA and New York State of fish and the fair market value thereof (to wit: 6,917 pounds of summer flounder (fluke), 12,258 pounds of black sea bass, and 50,670 pounds of scup with a total value of \$78,000), and to obtain money and property from NOAA and New York State by means of materially false and fraudulent pretenses and representations (to wit: that the fish represented as caught on Fishing Vessel Trip Reports and as purchased on federal dealer reports were of a certain species, quantity, quota designation, and weight, when in fact, the fish were not as represented on federal forms, and in fact were in excess of New York State daily trip limits and/or RSA fluke quotas), and for the purpose of executing such scheme and artifice, transmit and cause to be transmitted writings, signs, and signals by means of wire communication in interstate commerce (to wit: the internet submission and transmission of at least 33 federal fisheries dealer reports from a portable computer that at various times was found in New York, New Jersey, and Florida to the NOAA Regional Fisheries Management Office in Gloucester, Massachusetts).

All in violation of Title 18, United States Code, Sections 1343, 2, and 3551 *et seq.*

COUNT FOUR - Falsification of Federal Records

20. On or about May 1, 2011, through December 31, 2011, within the Eastern District of New York, and elsewhere, the defendants,

MARK PARENTE and LOU'S FISH MARKET, INC.,

did knowingly falsify and make false entries into records and documents (to wit: at least 78 federal fisheries dealer reports required to be prepared, maintained, and transmitted to the U.S. Government by 50 C.F.R. § 648.7(a)(1), 648.7(f) with the intent to impede, obstruct, and influence the proper administration of any matter (to wit: the detection of illegal fishing activity by catcher vessels and the collection and evaluation of biological and economic data utilized to manage fisheries pursuant to the Magnuson-Stevens Fishery Conservation and Management Act) and in relation to and in contemplation of such matter, within the jurisdiction of any department and agency of the United States (to wit: NOAA, an agency of the Department of Commerce).

All in violation of Title 18, United States Code, Sections 1519 and 2.

COUNT FIVE - Lacey Act False Labeling

21. On or about May 1, 2011, through December 31, 2011, within the Eastern District of New York, and elsewhere, the defendant,

LOU'S FISH MARKET, INC.,

did knowingly make and submit false records and accounts (to wit: approximately twenty falsified federal dealer reports that the defendant directly submitted to NOAA and approximately twenty falsified FVTRs that the defendant aided and abetted Fisherman X submit to NOAA) of any fish (to wit: approximately 70,000 pounds of fluke), which had been and was intended to be

1 transported in interstate commerce, and that involved the sale and purchase of fish that was
2 valued over \$350 (to wit: approximately \$350,000 fair market retail value).

3 All in violation of Title 16, United States Code, Sections 3372(d)(2), 3373(d)(3)(A)(ii)
4 and Title 18, United States Code, Section 2.
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11 ASSISTANT ATTORNEY GENERAL
12 ENVIRONMENT AND NATURAL
13 RESOURCES DIVISION
14 U.S. DEPARTMENT OF JUSTICE
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16 Dated: June 4, 2015
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