

MELINDA HAAG (CASBN 13612)
United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR
)	
Plaintiff,)	
)	
v.)	VIOLATIONS: 16 U.S.C. §§ 3372(a)(2)(A),
)	3373(d)(1)(B) - Lacey Act; 18 U.S.C. § 1001
DEAN TUAN TRINH,)	- False Statement; 18 U.S.C. § 1343 - Wire
)	Fraud; 16 U.S.C. § 3373(c) Lacey Act
Defendant.)	Forfeiture
)	
)	SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

BACKGROUND

At all times relevant to this Indictment:

1. Defendant DEAN TUAN TRINH operated a wholesale fish business at 1851 McCarthy Boulevard, Milpitas, California, under the following names: AquatopUSA LLC, High Tech Auctions, AquaBid.com, and Hightechauction.com. Through his business, TRINH sold California leopard sharks to individuals and entities in the United States and internationally.
2. TRINH was the registered owner of a fishing vessel "Shark Hunter," registration #CF7444KF, CDFG #70163, and FG 07153, which he used to fish for California leopard sharks in the San Francisco Bay. He transported the sharks from the Bay to his business in his black 2005 Toyota

Tundra double cab (VIN: 5TBET34155S472936; CA license plate 8R95230). TRINH advertised the California leopard sharks for sale on the internet.

2 Regulatory Background

3 3. *California leopard sharks* are a species of shark within the Triakidae family and are commonly
4 found in ocean waters along the coast of California. The major pupping areas where young
5 California leopard sharks are born are within the San Francisco Bay. Pups are born live at
6 approximately 10 inches in length.

7 4. In January 1994, the California Department of Fish & Game Code placed a minimum size
8 limit of 36 inches for any commercial take of California leopard shark within California. Cal. Dept.
9 Fish & Game Code § 8388.5(a). Pursuant to section 8388.5, “[a] person shall not take, possess, sell, or
10 purchase for commercial purposes any leopard shark less than 36 inches in total length.” This size
11 limit was implemented to ensure the species’ ability to maintain healthy stocks in the wild because the
12 California leopard shark is a slow growing species which does not reach sexual maturity until between
13 13 years of age. It may live as long as 30 years.

14 5. The federal Lacey Act makes it unlawful for any person to import, export, transport, sell,
15 receive, acquire, or purchase in interstate or foreign commerce, any fish or wildlife, taken,
16 possessed, transported, or sold in violation of any law or regulation of any State. 16 U.S.C. §
17 3372(a)(2)(A).

18 6. The United States Fish & Wildlife Service (“USFWS”) is an agency of the United States.
19 USFWS has authority to investigate and enforce criminal laws related to offenses including
20 wildlife violations, wire fraud, and false statements.

21 COUNTS ONE THROUGH FIVE: (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B) – The Lacey Act)

22 7. Paragraphs 1 through 6 are realleged and incorporated by reference.

23 8. On or about the dates listed below, in the Northern District of California and elsewhere,
24 defendant,

25 DEAN TUAN TRINH,

26 did knowingly engage in conduct that involved the sale of, offer of sale and purchase of, and intent
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to sell and purchase fish with a market value in excess of \$350.00, that is, undersized California leopard sharks (*Triakis semifasciata*), and did knowingly transport, sell, receive, and acquire said fish and attempt to do so, in interstate commerce, knowing said fish were taken, possessed, transported, and sold in violation of and in a manner unlawful under the laws and regulations of the State of California, specifically California Fish & Game Code, Section 8388.5(a), in that the sharks were less than 36 inches in total length.

Count	Date Shipped	Shipped From	Shipped To	Value
7 8 9	01/08/10	San Jose, CA	Hopewell Junction, New York	\$850.00
10 11	10/13/10	San Francisco, CA	Aquarium of Quebec Quebec, Canada	\$1,200.00
12	12/01/10	San Francisco, CA	Aquarium of Quebec Quebec, Canada	\$1,200.00
13	12/07/11	San Francisco, CA	Aquarium By Design Ontario, Canada	\$1,200.00
14 15	02/01/12	San Jose, CA	Miami, Florida	\$3,000.00

16 All in violation of Title 16, United States Code, Sections 3372(a)(2)(A) and 3373(d)(1)(B).

17 COUNT SIX: (18 U.S.C. § 1001 – False Statement)

18 9. Paragraphs 1 through 6 are realleged and incorporated by reference.

19 10. On or about October 15, 2010, in a matter in the Northern District of California within the
20 jurisdiction of the executive branch of the Government of the United States, defendant

21 DEAN TUAN TRINH,

22 did knowingly and willfully make a false, fraudulent, and fictitious material statement and
23 representation to the U.S. Fish & Wildlife Service; that is the defendant stated that the California
24 leopard shark he was shipping in interstate commerce was 36" to 38," when in fact he knew it was
25 less than 36" in total length in violation of California law, in violation of Title 18, United States
26 Code, Section 1001.

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COUNT SEVEN: (18 U.S.C. § 1001 – False Statement)

1 11. Paragraphs 1 through 6 are realleged and incorporated by reference.

2 12. On or about February 1, 2012, in a matter in the Northern District of California within the
jurisdiction of the executive branch of the Government of the United States, defendant

4 DEAN TUAN TRINH,

5 did knowingly and willfully make a false, fraudulent, and fictitious material statement and
6 representation to the U.S. Fish & Wildlife Service; that is that he had collected the California
7 leopard sharks in his possession under the scientific permit issued to M.A. and was shipping these
8 sharks to M.A., well knowing that such statements and representations were false, fictitious and
9 fraudulent when made, in violation of Title 18, United States Code, Section 1001.

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COUNTS EIGHT THROUGH TEN: (18 U.S.C. § 1343 – Wire Fraud)

12 13. Paragraphs 1 through 6 above are realleged and incorporated by reference.

13 14. On or about the dates and times listed below, in the Northern District of California and
14 elsewhere, for the purpose of executing a scheme and artifice to defraud the U.S. Fish & Wildlife
15 Service as to a material matter, by shipping California leopard sharks under 36 inches in total
16 length, and for obtaining money by means of materially false and fraudulent pretenses,
17 representations, promises, and omissions, defendant,

18 DEAN TUAN TRINH,

19 did knowingly cause to be transmitted and did aid and abet in causing to be transmitted the
20 following wire communications in interstate commerce:

21 Ct	Date	Description of Wire
22 8	10/15/10	Electronic filing of USFWS Form 3-177 in Milpitas, CA,
23 9	11/30/10	Electronic filing of USFWS Form 3-177 in Milpitas, CA, to USFWS' server in Denver, Colorado
24 10	12/07/11	Electronic filing of USFWS Form 3-177 in Milpitas, CA, to USFWS' server in Denver, Colorado

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27 Each in violation of 18 U.S.C. § 1343.

FORFEITURE ALLEGATION: (16 U.S.C. § 3373(c) – Lacey Act Forfeiture)

1 15. Paragraphs 1 through 8 of this Indictment are realleged and incorporated by reference for
2 the purpose of alleging forfeiture pursuant to 16 U.S.C. § 3373(c).

3 16. Upon conviction of an offense set forth in Counts One through Five of this Indictment, a
4 violation of 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B), defendant

5 **DEAN TUAN TRINH,**

6 shall forfeit to the United States, pursuant to 16 U.S.C. § 3373(c), all vessels, vehicles, and other
7 equipment used to aid in the importing, exporting, transporting, selling, receiving, acquiring, or
8 purchasing of fish or wildlife, specifically including the following:

9 a. the Shark Hunter, a fishing vessel, registration #CF7444KF; CDFG #70163; FG 07153;
and

10 b. a black 2005 Toyota Tundra double cab (VIN: 5TBET34155S472936);

11 17. If any of the property described above, as a result of any act or omission of the defendant:

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

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

14 c. has been placed beyond the jurisdiction of the court;

15 d. has been substantially diminished in value; or

16 e. has been commingled with other property which cannot be divided without difficulty,

17 the United States shall be entitled to forfeiture of substitute property pursuant to 21 U.S.C. § 853(p).

18 All pursuant to 16 U.S.C. § 3374(a)(2), 21 U.S.C. § 853, and 28 U.S.C. § 2461.

19 Dated:

A TRUE BILL.

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FOREPERSON

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MELINDA HAAG
23 United States Attorney

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25 RANDA KANE
Chief, Criminal Division

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(Approved as to form: _____)

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AUSA Bessette

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