

3. Unindicted co-conspirator A was a citizen of the Country of Moldova.
4. Unindicted co-conspirator B was an Illinois resident, residing in or near Hinsdale, Illinois.
5. Unindicted co-conspirator C was a New Jersey resident, residing in or near Vineland, New Jersey.
6. Unindicted co-conspirator D was a New Jersey resident, residing in or near Vineland, New Jersey.

Relevant Laws and Regulations

7. The American paddlefish (*Polydon spathula*), also called the Mississippi paddlefish or the spoonbill (hereinafter “paddlefish”), is a freshwater fish that is primarily found in the Mississippi River drainage system. Paddlefish eggs are marketed as caviar. Paddlefish were once common in waters throughout the Midwest. However, the global decline in other caviar sources, such as sturgeon, has led to an increased demand for paddlefish caviar. This increased demand has led to over-fishing of paddlefish, and consequent decline of the paddlefish population.

8. Missouri law prohibits the taking, possession, purchase, sale, or import, of any wild animal, including paddlefish and paddlefish eggs, except as authorized by law. 3 CSR 10-4.110.

9. Missouri law provides that no person may take more than two paddlefish per day. 3 CSR 10-6.525(1). “Take” means, among other things, to kill or capture in any manner. 3 CSR 10-20.805(53).

10. Missouri law provides that no person may possess more than four paddlefish at any time. 3 CSR 10-6.405(3)(F).

11. Missouri law requires that a person must acquire a valid Roe Fish Dealer Permit before that person may legally buy or possess paddlefish, for the purpose of processing, transporting, shipping, or selling them. 3 CSR 10-10.728.

12. Missouri law prohibits the transportation of paddlefish eggs which have been removed or extracted from a paddlefish carcass. 3 CSR 2-6.525(5).

13. Missouri law prohibits the sale or purchase, or offer of sale or purchase, of paddlefish eggs. 3 CSR 10-6.525(5).

14. Missouri law provides that persons possessing paddlefish or paddlefish eggs that were taken by another person shall plainly label the paddlefish, or paddlefish eggs, in a way that identifies the species and provides the full name, address, and permit number of the taker and the date taken. 3 CSR 10-4.136, 3 CSR 10-4.137.

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

16. On or about and between March 20, 2012, and April 28, 2012, those dates being approximate and inclusive, in the Western District of Missouri and elsewhere, Defendants PETR BABENKO and BOGDAN NAHAPETYAN, a\k\ a “ARA”, and others both known and unknown to the Grand Jury, did knowingly combine, conspire, confederate and agree with each other to commit an offense against the United States, namely:

17. Objective of the Conspiracy: To knowingly engage in conduct involving the sale and purchase, offer to sell and purchase, and intent to sell and purchase fish having a market value exceeding \$350, to wit: paddlefish and paddlefish eggs (*Polydon spathula*), by knowingly

transporting said fish in interstate commerce, knowing that said fish were possessed and sold in violation of, and in a manner unlawful under, Missouri state law and regulation, specifically 3 CSR 10-4.110, 10-6.405(3)(F), 3 CSR 10-4.136, 3 CSR 10-4.137, 3 CSR 10-6.525, and 3 CSR 10-10.728. Such conduct is prohibited by the Lacey Act, at Title 16, United States Code, Sections 3372(a)(2)(A), and 3373(d)(1)(B).

I. THE MEANS AND METHODS USED BY THE CONSPIRATORS TO ACHIEVE THE OBJECTIVE OF THE CONSPIRACY

In order to achieve the objectives of the conspiracy:

18. Defendants BABENKO and NAHAPETYAN purchased paddlefish and paddlefish eggs in the Western District of Missouri. Neither Defendant BABENKO nor Defendant NAHAPETYAN had a valid Roe Fish Dealer Permit. The paddlefish and paddlefish eggs were not labeled in a way that identified the person that harvested and sold them.

19. Defendants BABENKO and NAHAPETYAN, and unindicted co-conspirators A and B, processed the paddlefish by removing the eggs from the paddlefish carcasses and placing them into separate containers. The containers were not labeled in a way that identified the person that harvested the paddlefish and paddlefish eggs.

20. Defendants BABENKO and NAHAPETYAN possessed paddlefish and paddlefish eggs in excess of the Missouri possession limits.

21. Defendant BABENKO and unindicted co-conspirators A, C, and D, transported the paddlefish and paddlefish eggs in interstate commerce.

II. OVERT ACTS

22. In furtherance of the conspiracy, and in order to effect its objective, Defendants BABENKO and NAHAPETYAN, and others both known and unknown to the Grand Jury,

committed, and caused to be committed, the following overt acts in the Western District of Missouri and elsewhere.

Overt Act One – On or about March 20, 2012, Defendant NAHAPETYAN attempted to purchase paddlefish eggs from D.F. D.F. did not have paddlefish but mentioned that J.B. might. When D.F. asked how many paddlefish he wanted to buy, Defendant NAHAPETYAN stated that he wanted to purchase “as many as I can get, 50-100.”

Overt Act Two – On or about March 28, 2012, Defendant NAHAPETYAN purchased a paddlefish from J.B. in Warsaw, Missouri. During the transaction Defendant NAHAPETYAN negotiated the future purchase of a paddlefish from J.B.

Overt Act Three – On or about March 29, 2012, Defendant NAHAPETYAN purchased a paddlefish from G.H. in Warsaw, Missouri.

Overt Act Four – On or about April 19, 2012, Defendant NAHAPETYAN left a voicemail message for J.B. regarding the purchase of more paddlefish. In that message, Defendant NAHAPETYAN stated that “I’m calling about the fish, man, I need, this is the last week of the season so I really need them man I need, I will take twenty, if you got twenty, twenty-five I definitely get them. Big fish man I got big order for you so please call me as soon as you get this, ok, you’ll be very interested.”

Overt Act Five – On or about April 19, 2012, Defendant NAHAPETYAN had two separate telephone conversations with J.B. to negotiate the purchase of paddlefish and paddlefish eggs. During those conversations, Defendant NAHAPETYAN acknowledged that the purchase of paddlefish and paddlefish eggs was illegal, but nevertheless quoted prices that he would be willing to pay for paddlefish and paddlefish eggs.

Overt Act Six – On or about April 20, 2012, Defendant NAHAPETYAN had two telephone conversations with J.B. regarding the purchase of paddlefish eggs. During one of those conversations, Defendant NAHAPETYAN stated “I have a guy coming ok, and what we are going to do, listen, I want to get a lot of stuff from you, okay?” Defendant NAHAPETYAN also stated “Another thing, okay? We take the whole thing, but uh, this guy told me we going to try every jug, just a tiny bit, you know.” It was ultimately agreed that J.B. would sell paddlefish eggs to Defendant NAHAPETYAN and his associate for \$50.00 per pound. Defendant NAHAPETYAN stated that his associate was “not from here” and would be driving a truck to Missouri for the purchase.

Overt Act Seven – On or about April 21, 2012, Defendant NAHAPETYAN had a telephone conversation with J.B. regarding the purchase of paddlefish eggs. During that conversation Defendant NAHAPETYAN stated that he wanted more “caviar.” When J.B. stated that he could sell 70 pounds of paddlefish eggs, Defendant NAHAPETYAN stated that “Okay, keep ‘em all, I’m going to take them all.” Defendant NAHAPETYAN also stated “You hook me up with the good stuff, you going to have a very good business for the future. . . You know this guy, I’m telling you, he’s a close friend of mine and uh, I was just talking and brought that up, whatever I’m getting right for them, it’s like nothing, you know. He wants a lot more.” Defendant NAHAPETYAN reiterated “there is no limit, much as you get, we get them all, okay?”

Overt Act Eight – On or about and between April 22, 2012, and April 23, 2012, Defendant NAHAPETYAN contacted J.B. multiple times to coordinate the exact time and location of the meeting to purchase paddlefish eggs.

Overt Act Nine – On or about April 23, 2012, Defendant NAHAPETYAN had a telephone conversation with J.B. during which it was revealed that J.B. had 80.75 pounds of paddlefish eggs that he could sell to Defendant NAHAPETYAN and his associate. Defendant NAHAPETYAN agreed that he would purchase all of the paddlefish eggs for \$50 per pound.

Overt Act Ten – On or about April 24, 2012, Defendant NAHAPETYAN exchanged multiple telephone conversations and messages with J.B. regarding the logistics of the sale of paddlefish and paddlefish eggs to Defendant NAHAPETYAN and his associate.

Overt Act Eleven – On or about April 24, 2012, Defendants BABENKO and NAHAPETYAN purchased five female paddlefish and 80 pounds of paddlefish eggs from J.B. and G.H. in Warsaw, Missouri, for \$4,625.

Overt Act Twelve – During the April 24, 2012, transaction, Defendants BABENKO and NAHAPETYAN asked J.B. and G.H. about the possibility of purchasing more paddlefish and paddlefish eggs in the future.

Overt Act Thirteen – On or about April 25, 2012, Defendant NAHAPETYAN exchanged multiple telephone conversations and messages with J.B. regarding the additional purchase of paddlefish.

Overt Act Fourteen – On or about April 25, 2012, Defendant NAHAPETYAN purchased four female paddlefish from J.B. in Warsaw, Missouri, for \$500.

Overt Act Fifteen – During the April 25, 2012, transaction, Defendant NAHAPETYAN told J.B. that Defendant BABENKO was a “distributor” of paddlefish eggs who knew how to sell the paddlefish eggs even though they had no certificate. Defendant NAHAPETYAN then stated “Whatever you get, you get one hundred two hundred pounds we are going to take them all.”

Overt Act Sixteen – On or about April 25, 2012, after purchasing paddlefish from J.B., Defendant NAHAPETYAN transported the four female paddlefish to another location in Warsaw, Missouri, where he met up with Defendant BABENKO and unindicted co-conspirators A and B.

Overt Act Seventeen – On or about April 25, 2012, in Warsaw, Missouri, Defendants BABENKO and NAHAPETYAN, and unindicted co-conspirators A and B processed the four paddlefish by, among other things, removing the eggs from the carcass.

Overt Act Eighteen – On or about April 25, 2012, after processing the four paddlefish, Defendants BABENKO and NAHAPETYAN, and unindicted co-conspirator A, transported the eggs from those paddlefish to Defendant NAHAPETYAN's home in Lake Ozark, Missouri.

Overt Act Nineteen – On or about and between April 25, 2012, and April 27, 2012, Defendant BABENKO and unindicted co-conspirator A transported the paddlefish eggs purchased on April 24, 2012, and April 25, 2012, by automobile, from Lake Ozark, Missouri, to Defendant BABENKO's home in Vineland, New Jersey.

All in violation of Title 18, United States Code, Section 371.

COUNT 2
Lacey Act Trafficking
(16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B); 18 U.S.C. § 2)

23. The information contained in paragraphs 1 through 15 of this Indictment are re-alleged and incorporated herein.

24. On or about and between April 24, 2012, and April 28, 2012, those dates being approximate and inclusive, in the Western District of Missouri and elsewhere, Defendants PETR BABENKO and BOGDAN NAHAPETYAN, a\k\a “ARA”, knowingly engaged in conduct involving the sale and purchase, offer to sell and purchase, and intent to sell and purchase fish

having a market value in excess of \$350, to wit: paddlefish and paddlefish eggs (*Polydon spathula*), by knowingly transporting, and causing to be transported, said fish in interstate commerce, knowing said fish were possessed and sold in violation of, and in a manner unlawful under, Missouri state law and regulation, specifically 3 CSR 10-4.110, 10-6.405(3)(F), 3 CSR 10-4.136, 3 CSR 10-4.137, 3 CSR 10-6.525, and 3 CSR 10-10.728.

All in violation of Title 16, United States Code, Sections 3372(a)(2)(A), 3373(d)(1)(B); and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION
16 U.S.C. § 3374(a)

1. Upon conviction of the offense alleged in Count Two Defendants PETR BABENKO and BOGDAN NAHAPETYAN, a\k\ a “ARA” shall forfeit to the United States pursuant to 16 U.S.C. § 3374(a)(2), all vessels, vehicles, and other equipment used to aid in the exporting, transporting, selling, receiving, acquiring, or purchasing of fish, in violation of Title 16, United States Code, Sections 3372 and 3373, including but not limited to, the following.

A. A 2011 Mercedes Benz cargo van, bearing New Jersey License Plate Number: P64AMX, and VIN # WD3PF4CC6B5512954.

B. A 2004 GMC Savana G2500 van, bearing Missouri License Plate Number: SD8K0L, and VIN# 1GTGG25V441105473.

C. A 2001 Lexus GS300 4 door sedan, bearing Missouri License Plate Number: WD0J6A, and VIN # JT8BD69S010147858.

2. Upon conviction of the offense alleged in Count Two Defendants PETR BABENKO and BOGDAN NAHAPETYAN, a\k\ a “ARA” shall forfeit to the United States pursuant to 16 U.S.C. §3374(a)(1) approximately 80.75 pounds of paddlefish eggs that had been processed into caviar.

3. Upon conviction of the offense alleged in Count Two Defendants PETR BABENKO and BOGDAN NAHAPETYAN, a\k\ a “ARA” shall forfeit to the United States pursuant to 16 U.S.C. §3374(a)(1) approximately six female paddlefish, including all of the eggs from those female paddlefish.

4. In the event that any of the property used in any of the offenses alleged in Counts Two or Three, or any property traceable to such property, as a result of any act or omission of the Defendants PETR BABENKO and BOGDAN NAHAPETYAN, a\k\ a “ARA”:

- A. Cannot be located upon the exercise of due diligence;
- B. Has been transferred or sold to, or deposited with a third party;
- C. Has been placed beyond the jurisdiction of the court;
- D. Has been substantially diminished in value; or
- E. Has been co-mingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the Defendant PETR BABENKO up to the value of the above property.

A TRUE BILL

/s/
FOREPERSON OF THE GRAND JURY

/s/ Lawrence E. Miller
LAWRENCE E. MILLER
ASSISTANT UNITED STATES ATTORNEY
WESTERN DISTRICT OF MISSOURI

/s/ James B. Nelson & Adam C. Cullman
JAMES B. NELSON
ADAM C. CULLMAN
TRIAL ATTORNEYS
U.S. DEPARTMENT OF JUSTICE

02/26/2013
Dated