

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : Hon.
v. : Mag. No. 21-
RICHARD GONTAREK :
: 16 U.S.C. §§ 3372(a)(2)(A)
: and 3373(d)(2)

INFORMATION

COUNTS 1-2
(Violations of the Lacey Act)

The Acting United States Attorney for the District of New Jersey charges:

Background

1. At all times relevant to this Information:

The Defendant

a. Defendant RICHARD GONTAREK ("defendant GONTAREK") was a resident of Woodbridge, New Jersey.

The Lacey Act

b. The Lacey Act, 16 U.S.C. § 3371 *et seq.*, made it a crime for a person to knowingly sell in interstate commerce wildlife possessed in violation of any law or regulation of any state when in the exercise of due care that person should have known that the wildlife was possessed in violation of, or in a manner unlawful under, the underlying law or regulation. *See* 16 U.S.C. §§ 3372(a)(2)(A) and 3373(d)(2).

New Jersey Law

c. New Jersey law made it unlawful for any person to possess with intent to sell any ivory or ivory product. *See* N.J.A.C. § 23:2A-13.3

d. "Ivory" was defined under New Jersey law as "any tooth or tusk composed of ivory from any animal, including, but not limited to, an elephant, hippopotamus, mammoth, narwhal, walrus, or whale, or any piece thereof, whether raw ivory or worked ivory, or made into, or part of, an ivory product." N.J.S.A. § 23:2A-13.2.

e. "Ivory product" meant "any item that contains, or that is wholly or partially made from, any ivory." *Id.*

Sperm Whale

f. The sperm whale (*Physeter macrocephalus*) was a species listed in Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as set forth in 50 C.F.R. Part 23.

Sales of Ivory Product

g. On or about January 2, 2018, defendant GONTAREK sold a pendant, which he had advertised for sale online as "Roimata Carving," that was made of ivory from the tooth of a sperm whale. As part of that transaction, defendant GONTAREK shipped the pendant by U.S. Postal Service from a location in or around Woodbridge, New Jersey, to a location in or around Etters, Pennsylvania.

h. On or about December 3, 2018, defendant GONTAREK sold a pendant, which he had advertised for sale online as "Makau Carving," that

was made of ivory from the tooth of a sperm whale. As part of that transaction, defendant GONTAREK shipped the pendant by U.S. Postal Service from a location in or around Woodbridge, New Jersey, to a location in or around Etters, Pennsylvania.

2. On or about the dates listed below, in Middlesex County in the District of New Jersey, and elsewhere, defendant

RICHARD GONTAREK

did knowingly sell in interstate commerce sperm whale ivory product possessed in violation of New Jersey law when in the exercise of due care he should have known that the sperm whale ivory product was possessed in violation of New Jersey law:

Count	Approximate Date	Sperm Whale Ivory Product
1	January 2, 2018	Roimata Carving
2	December 3, 2018	Makau Carving

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

FORFEITURE ALLEGATION AS TO COUNT ONE

1. As a result of committing the Lacey Act offense alleged in Count One of the Information, defendant GONTAREK shall forfeit to the United States, pursuant to 16 U.S.C. § 3374 and 28 U.S.C. § 2461(c), any and all wildlife imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of 16 U.S.C. § 3372, and the regulations issued pursuant thereto, namely, one sperm whale tooth pendant described as Roimata Carving (#249).

FORFEITURE ALLEGATION AS TO COUNT TWO

2. As a result of committing the Lacey Act offense alleged in Count Two of the Information, defendant GONTAREK shall forfeit to the United States, pursuant to 16 U.S.C. § 3374 and 28 U.S.C. § 2461(c), any and all wildlife imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of 16 U.S.C. § 3372, and the regulations issued pursuant thereto, namely, one sperm whale tooth pendant described as Makau Carving (#190).

SUBSTITUTE ASSETS PROVISION
(Applicable to All Forfeiture Allegations)

3. If by any act or omission of the defendant any of the property subject to forfeiture:

- 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 commingled with other property which cannot be divided without difficulty,

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), to seek forfeiture of any other property of such defendant up to the value of the above-described forfeitable property.



RACHAEL A. HONIG
ACTING UNITED STATES ATTORNEY

CASE NUMBER: _____

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UNITED STATES OF AMERICA

v.

RICHARD GONTAREK

INFORMATION FOR

16 U.S.C. §§ 3372(a)(2)(A) and 3373(d)(2)

RACHAEL A. HONIG

ACTING UNITED STATES ATTORNEY, NEWARK, NEW JERSEY

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