

Approved: Thomas John Wright
THOMAS JOHN WRIGHT
Assistant United States Attorney

Before: THE HONORABLE KATHARINE H. PARKER
United States Magistrate Judge
Southern District of New York

21 MAG 1841

----- X	:	<u>SEALED COMPLAINT</u>
UNITED STATES OF AMERICA	:	
	:	Violations of
- v. -	:	18 U.S.C. §§ 371, 545,
	:	and 2
MAHMUD CHOWDHURY,	:	
a/k/a "Masum Chowdhury,"	:	COUNTY OF OFFENSE:
a/k/a "Uncle Masum,"	:	NEW YORK
SHAKIL AHMED,	:	
BELAYET HUSSAIN,	:	
a/k/a "Belayet Sohel," and	:	
FIROZ AHAMMAD,	:	
	:	
Defendants.	:	
	:	
----- X	:	

SOUTHERN DISTRICT OF NEW YORK, ss.:

ADEBOLA AWE, being duly sworn, deposes and says that he is a Special Agent with the Department of Homeland Security, Homeland Security Investigations ("HSI"), and charges as follows:

COUNT ONE

(Conspiracy to Smuggle Catfish)

1. From at least in or about January 2018 up to and including at least in or about October 2019, in the Southern District of New York and elsewhere, MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," SHAKIL AHMED, BELAYET HUSSAIN, a/k/a "Belayet Sohel," and FIROZ AHAMMAD, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Title 18, United States Code, Section 545.

2. It was a part and an object of the conspiracy that MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," SHAKIL AHMED, BELAYET HUSSAIN, a/k/a "Belayet Sohel," and FIROZ AHAMMAD, the defendants, and others known and unknown, did fraudulently and knowingly import and bring into the United States certain merchandise contrary to law, and received, concealed, bought, sold, and facilitated the transportation, concealment, and sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law, to wit, the defendants conspired to import into the United States certain banned fish of the order Siluriformes, which are commonly known as "catfish," and sold the same to customers within the United States, in violation of Title 18, United States Code, Section 545.

OVERT ACTS

3. In furtherance of said conspiracy and to affect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere, by MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," SHAKIL AHMED, BELAYET HUSSAIN, a/k/a "Belayet Sohel," and FIROZ AHAMMAD, the defendants:

a. On or about January 25, 2019, CHOWDHURY, AHMED, HUSSAIN, and AHAMMAD caused to be imported aboard a vessel that crossed the waters of the Southern District of New York a quantity of fish of the order Siluriformes, commonly referred to as catfish, contrary to law.

b. On or about August 5, 2019, CHOWDHURY, AHMED, HUSSAIN, and AHAMMAD caused to be imported aboard a vessel that crossed the waters of the Southern District of New York a quantity of fish of the order Siluriformes, commonly referred to as catfish, contrary to law.

c. On or about August 13, 2019, CHOWDHURY, AHMED, HUSSAIN, and AHAMMAD caused to be imported aboard a vessel that crossed the waters of the Southern District of New York a quantity of fish of the order Siluriformes, commonly referred to as catfish, contrary to law.

d. On or about August 13, 2019, CHOWDHURY, AHMED, HUSSAIN, and AHAMMAD caused to be imported aboard a vessel that crossed the waters of the Southern District of New York a quantity of fish of the order Siluriformes, commonly referred to as catfish, contrary to law.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Smuggling Catfish into the United States)

4. From at least in or about January 2018 up to and including at least in or about October 2019, in the Southern District of New York and elsewhere, MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," SHAKIL AHMED, BELAYET HUSSAIN, a/k/a "Belayet Sohel," and FIROZ AHAMMAD, the defendants, fraudulently and knowingly did import and bring into the United States certain merchandise contrary to law, and received, concealed, bought, sold, and facilitated the transportation, concealment, and sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law, to wit, the defendants imported into the United States certain banned fish of the order Siluriformes, which are commonly known as "catfish," and sold the same to customers within the United States.

(Title 18, United States Code, Sections 545 and 2.)

5. The bases for my knowledge and for the foregoing charges are, in part, described in the following paragraphs.

6. I have served for more than two years in HSI, and this affidavit is based upon my personal participation in the investigation of this matter, my conversations with law-enforcement personnel and other individuals, as well as my examination of reports and other records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported in this Complaint, they are reported in substance and part, except where otherwise indicated.

Overview of the Scheme

7. As described in the following paragraphs, since in or about 2017, the importation into the United States from most countries of fish of the order Siluriformes, which includes multiple species of fish commonly referred to as catfish, has been prohibited by federal law, in order to ensure the safety of food for human consumption in the United States. Notwithstanding this ban, MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," SHAKIL AHMED, BELAYET HUSSAIN, a/k/a "Belayet Sohel," and FIROZ AHAMMAD, the defendants and the principals of Asia Foods Distributor Inc. ("AFD"), a trading

company based in New York City, conspired to smuggle large quantities of prohibited catfish into the United States through the Southern District of New York for distribution to their customers around the United States. The defendants implemented a scheme through which the banned catfish was listed as other species of fish in the shipping documents of foreign exporters presented at customs, and also in the commercial invoices that they provided to their customers, thereby disguising its importation and distribution. In or about 2019, a customs inspection of a shipping container bound for AFD led to the discovery of the prohibited catfish. Further quantities of illegally imported catfish were also found at AFD's warehouse and at certain of AFD's customers' stores during site inspections. A subsequent law-enforcement investigation led to the seizure of multiple shipping containers bound for AFD, in which banned catfish was identified. Moreover, the execution of a search warrant at AFD's warehouse resulted in the seizure of evidence documenting AFD's orders to foreign exporters and communications between the defendants about how to avoid the detection of their scheme and the accompanying risk of potential arrest and imprisonment.

The FMIA and the Importation Ban on Catfish

8. Based on my training and experience and work on this investigation alongside law-enforcement officers from the Office of the Inspector General for the United States Department of Agriculture ("USDA") and the National Oceanographic and Atmospheric Administration ("NOAA") of the United States Department of Commerce, I know that in 2014, Congress amended the Federal Meat Inspection Act ("FMIA") to include "all fish of the order Siluriformes" to the definition of "amenable species" under the FMIA, which pursuant to the FMIA made them subject to the inspection of the Food Safety Inspection Service of the USDA ("USDA FSIS"). (See Mandatory Inspection of Fish of the Order Siluriformes and Products Derived From Such Fish, 80 Fed. Reg. 75590 (Dec. 2, 2015).) Thereafter, in 2015, USDA FSIS promulgated a final rule, which became fully effective in or about 2017 and which, *inter alia*, restricted the importation of fish of the order Siluriformes, which includes the family Ictaluridae, commonly known as "catfish," from foreign countries in the absence of inspection systems in those countries reflecting equivalent standards of growing and processing such fish sufficient to ensure compliance with regulations assuring the safety of food for human consumption in the United States. (See *id.*) Since in or about 2017 and at all times through to the present, USDA FSIS has only approved the importation of fish of the order Siluriformes from China, Thailand, and Vietnam.

Thus, from in or about 2017 through to the present, the importation of fish of the order Siluriformes from any other country was and is illegal.

Asia Foods Distributor Inc.

9. Based on my training and experience and work on this investigation alongside law-enforcement officers from USDA and NOAA, my conversations with law-enforcement personnel and other individuals, including personnel from USDA FSIS, my review of public databases of information concerning private companies, my review of certain bank records from a financial institution ("Financial Institution-1"), my review of importation records maintained by United States Customs and Border Protection ("CBP"), and my execution of a premises warrant, I have learned the following information about AFD:

a. AFD is a private company incorporated in the State of New York and registered with the New York Department of State as a domestic business corporation since in or about 2014 with its principal executive office listed as an address in Maspeth, New York (the "AFD Warehouse"), and its Chief Executive Officer listed as "Mahmud Chowdhury," who I have identified as MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," the defendant.

b. Based on my review of bank records obtained from Financial Institution-1, I know that in one or more records, each of CHOWDHURY and SHAKIL AHMED, BELAYET HUSSAIN, a/k/a "Belayet Sohel," and FIROZ AHAMMAD, the defendants, are listed, in substance and in part, as an owner of AFD.

c. Based on my execution of a premises warrant at the AFD Warehouse, which I detail below in ¶ 13, *infra*, I know that those premises consist of a commercial warehouse, which includes an office and from which at all relevant times through to the present AFD has conducted its business.

d. A trading company focused on the importation of food products from Asia for distribution to domestic customers within the United States, AFD appears in importation records maintained by CBP as the importer and ultimate consignee of record for at least 145 maritime shipments to arrive at the Port of New York/Newark, located in Elizabeth, New Jersey between in or about January 2018 and September 2019.¹ Based on a

¹ Any vessel destined for the Port of New York/Newark must pass through the waters of the Southern District of New York prior to its arrival there.

compilation of data from shipping and other entry-related documents tied to the shipments, CBP reports that the majority of these maritime shipments originated in Asia and contained various food products, including fish and fish products. Out of these 145 maritime shipments, the seller of record for the goods imported was located in Myanmar for at least 32 shipments, and in Bangladesh for at least 87 shipments. Out of the 32 shipments of goods whose origin was Myanmar: (i) for at least 14 shipments that arrived at the Port of New York/Newark between on or about March 28, 2018 and on or about August 13, 2019, a foreign trading company, which is located in Myanmar and which is discussed in ¶¶ 9.a and 9.c *infra* ("Foreign Trading Company-1"), was listed as the seller of record; and (ii) for at least two shipments that arrived at the Port New York/Newark between on or about August 20, 2018 and August 5, 2019, a foreign trading company, which is located in Myanmar and which is discussed in ¶ 9.b *infra* ("Foreign Trading Company-2"), was listed as the seller of record. Out of the 87 shipments of goods whose origin was Bangladesh, for at least 34 shipments that arrived at the Port of New York/Newark between on or about January 10, 2018, and on or about August 19, 2019, a foreign trading company, which is located in Bangladesh and which is discussed in ¶ 9.d *infra* ("Foreign Trading Company-3"), was listed as the seller of record.

Intercepted Shipping Containers

10. Based on my training and experience and work on this investigation alongside law-enforcement officers from USDA and NOAA, my conversations with law-enforcement personnel and other individuals, my review of certain reports prepared by law-enforcement personnel, including reports detailing the search and seizure of certain shipments by NOAA, my review of certain photographs documenting those searches and seizures, and my review of importation records maintained by CBP, I have learned the following information about four shipments in or about January 2019 and August 2019 in which food products that AFD imported to the United States from Bangladesh or Myanmar contained illegally imported fish of the order Siluriformes, which were not listed in accompanying shipping documents and were disguised as other types of fish in the labels on their packaging:

a. On or about January 25, 2019, a vessel delivered a refrigerated container ("Container-1") to the Port of New York/Newark. On or about January 31, 2019, law-enforcement personnel from NOAA and CBP conducted an inspection of Container-1, which AFD imported from Foreign Trading Company-1, located in Myanmar. During this inspection, law-enforcement

personnel identified a large number of white burlap sacks bearing a label marked with "Asia Foods Distributor Inc." and otherwise marked as containing Rohu, a species of fish commonly referred to as carp and not subject to the FMIA. As the inspection continued, however, law-enforcement personnel identified a further quantity of burlap sacks bearing the same labels and markings but also a circled "A," inside of which they found approximately 47 cartons of what an officer from NOAA ("Officer-1"), who is trained and possesses multiple years of experience in the visual identification of fish species, identified as whole frozen Baga Ayer, a species of fish of the order Siluriformes commonly referred to as catfish, each of which was individually labeled with a sticker bearing the name of "Asia Foods Distributor Inc.," the notations, "Name of Fish: Ayer," "Common Name: Giant River Cat Fish," "Exported by [Foreign Trading Company-1]," and "Wild Caught," and an expiration date of August 2019. As the inspection continued, law-enforcement personnel identified a further quantity of otherwise unmarked brown boxes bearing a circled "B," inside of which they found what Officer-1 identified as whole frozen Batashi, another species of fish of the order Siluriformes commonly referred to as catfish, which were sealed in packages labeled "Batashi" with a "best before" date of "November 2020." Neither of these two species of fish of the order Siluriformes appeared in the packing list for Container-1.

b. On or about August 5, 2019, a vessel delivered a second refrigerated container ("Container-2") to the Port of New York/Newark. On or about August 16, 2019, law-enforcement personnel from NOAA and CBP, together with personnel from USDA FSIS, conducted an inspection of Container-2, which AFD imported from Foreign Trading Company-2, located in Myanmar. During this inspection, law-enforcement personnel identified a large number of white burlap sacks bearing a label marked with "Asia Foods Distributor Inc." and otherwise marked as containing Rohu, again a species of fish commonly referred to as carp and not subject to the FMIA, and with a "best before" date of "MAR 2021." As the inspection continued, however, law-enforcement personnel identified a quantity of these burlap sacks bearing the same labels and markings but also a circled "A-2.6" or "A2," inside of which they found cartons of what Officer-1 and an investigator from USDA FSIS ("Investigator-1"), who is similarly trained and possesses multiple years of experience in the visual identification of fish species, both identified as whole frozen Baga Ayer, the previously referenced species of fish of the order Siluriformes commonly referred to as catfish. As the inspection continued, law-enforcement personnel also identified a quantity of these burlap sacks bearing the same labels and

markings but also a circled "B-2.6" or "B6," inside of which they found cartons of what Officer-1 and Investigator-1 both identified as whole frozen Boal, another species of fish of the order Siluriformes commonly referred to as catfish. Neither of these two species of fish of the order Siluriformes appeared in the packing list for Container-2, which CBP seized as containing contraband given that the country of origin was Myanmar. Thereafter, on or about August 28, 2019, law-enforcement personnel from CBP, NOAA, and HSI conducted a further inspection of Container-2, during which they identified that approximately 102 cartons were contained in the white burlap sacks marked "A-2.6" or "A6," that approximately 63 cartons were contained in the white burlap sacks marked "B-2.6" or "B6," and that each of the cartons was labeled as weighing 19 or 20 kilograms.

c. On or about August 13, 2019, a vessel delivered a third refrigerated container ("Container-3") to the Port of New York/Newark. On or about August 21, 2019, law-enforcement personnel from NOAA, CBP, and HSI, together with personnel from USDA FSIS, conducted an inspection of Container-3, which AFD imported again from Foreign Trading Company-1, the same company located in Myanmar involved with Container-1. During this inspection, law-enforcement personnel identified a large number of white burlap sacks bearing a label marked with "Asia Foods Distributor Inc." A quantity of these white burlap sacks marked as containing Rohu, again a species of fish commonly referred to as carp and not subject to the FMIA, were also marked with a circled "A," inside of which law-enforcement personnel found approximately 86 cartons of what Investigator-1 identified as whole frozen Baga Ayer, again a species of fish of the order Siluriformes commonly referred to as catfish. Another quantity of these white burlap sacks marked as containing Mrigal, a species of fish also commonly referred to as carp and also not subject to the FMIA, were also marked with a circled "B," inside of which law-enforcement personnel found approximately 33 cartons of what Investigator-1 identified as whole frozen Boal, again a species of fish of the order Siluriformes commonly referred to as catfish. A further quantity of these white burlap sacks marked as containing Koral, a species of fish commonly referred to as giant perch and not subject to the FMIA, were also marked with a circled "PA," inside of which law-enforcement personnel found approximately 30 cartons of what Investigator-1 identified as whole frozen Padba, a further species of fish of the order Siluriformes commonly referred to as catfish. Each of these cartons contained in the white burlap sacks was labeled as weighing between 19 and 23 kilograms. In addition to the white burlap sacks, law-enforcement personnel also identified a large quantity of brown

boxes. Inside these brown boxes, law-enforcement personnel found, *inter alia*: (i) a quantity of boxes marked "AFD" with a circled "B," inside of which they found what Investigator-1 identified as whole frozen Batashi, again a species of fish of the order Siluriformes commonly referred to as catfish, which were labeled "Batashi" with a "best before" date of "May 2021"; (ii) a quantity of boxes marked "AFD" with a circled "A-S," inside of which they found steaks of what appeared to be Baga Ayer, again a species of fish of the order Siluriformes commonly referred to as catfish, which were labeled "Ayer Steak" and "Giant River Catfish" with a "best before" date of "May 2021"; and (iii) a quantity of boxes marked "AFD" with a circled "B-S," inside of which they found steaks of what appeared to be Boal, again a species of fish of the order Siluriformes commonly referred to as catfish, which were labeled "Boal Steak" with a "best before" date of "May 2021." None of these multiple species of fish of the order Siluriformes appeared in the packing list for Container-3, which CBP seized as containing contraband given that the country of origin was Myanmar.

d. On or about August 13, 2019, a vessel delivered a fourth refrigerated container ("Container-4") to the Port of New York/Newark. On or about August 21, 2019, law-enforcement personnel from NOAA, CBP, and HSI, together with personnel from USDA FSIS, conducted an inspection of Container-4, which AFD imported from Foreign Trading Company-3, located in Bangladesh. During this inspection, law-enforcement personnel identified a large quantity of boxes containing what Investigator-1 identified as whole frozen Bacha and Kajoli, two species of fish of the order Siluriformes commonly referred to as catfish, among other species of Siluriformes, each of which were labeled as another species of fish, not subject to the FMIA. Neither of these species of fish of the order Siluriformes appeared in the packing list for Container-4, which CBP seized as containing contraband given that the country of origin was Bangladesh.

11. Based on my training and experience and work on this investigation alongside law-enforcement officers from USDA and NOAA, my conversations with law-enforcement personnel and other individuals, including employees of a shipping broker for AFD ("Shipping Broker-1"), and my review of certain emails transmitted between AFD and Shipping Broker-1, I know that in or about September 2019, after having been informed that Container-2, Container-3, and Container-4 were held in customs, an individual using an email address associated with AFD (the "AFD Email Address") – which was set to display as "Mahmud Chowdhury," the name of MAHMUD CHOWDHURY, a/k/a "Masum

Chowdhury," a/k/a "Uncle Masum," the defendant – participated in a series of emails with personnel at CBP and Shipping Broker-1, and attempted to secure the release of Container-2, Container-3, and Container-4.

AFD Warehouse and Customer Store Site Inspections

12. Based on my training and experience and work on this investigation alongside law-enforcement officers from USDA and NOAA, my conversations with law-enforcement personnel and other individuals, my review of certain reports prepared by law-enforcement personnel and other individuals, including reports detailing site inspections conducted by USDA FSIS, my review of certain photographs documenting those inspections, and my review of importation records maintained by CBP, I have learned the following information about four site inspections conducted by USDA FSIS relating to AFD:

a. On or about July 17, 2019, an investigator from USDA FSIS ("Investigator-2"), who is trained and possesses multiple years of experience in the visual identification of fish species, conducted a site inspection at the AFD Warehouse, which is subject to the regulation of USDA FSIS. During this inspection, inside a walk-in freezer inside of the AFD Warehouse, Investigator-2 found four whole frozen fish, which were wrapped in unmarked packaging and which Investigator-2 identified as fish of the order Siluriformes. When Investigator-2 questioned SHAKIL AHMED, the defendant – who was present at the AFD Warehouse at the time of the site inspection – about the fish, AHMED claimed that the fish had been returned to AFD; however, AHMED was not able to produce any documentation to substantiate their return. Asserting that the fish were designated for destruction, AHMED volunteered to destroy them in the presence of Investigator-2, which AHMED proceeded to accomplish.

b. On or about August 1, 2019, Investigator-1 conducted a site inspection at the AFD Warehouse. During this inspection, inside of a walk-in freezer inside the AFD Warehouse, Investigator-1 found multiple packages individually labeled with a sticker bearing the name of "Asia Foods Distributor Inc.," the notations, "Name of Fish: Boal Egg," "Common Name: Giant River Cat Fish," "Exported by [Foreign Trading Company-1]," and "Wild Caught," and an expiration date of "January 2020." Recognizing Boal, a species of fish of the order Siluriformes commonly referred to as catfish, Investigator-1 questioned BELAYET HUSSAIN, a/k/a "Belayet Sohel," the defendant, and one other employee of AFD – who were both present at the AFD Warehouse at the time of the site

inspection – and requested documentation for this fish product subject to the FMIA, which they were not able to provide and requested leave to acquire.

c. On or about August 28, 2019, an investigator from USDA FSIS (“Investigator-3”), who is trained and possesses multiple years of experience in the visual identification of fish species, conducted a site inspection at the premises of a retail customer in Paterson, New Jersey (“Retail Customer-1”), which is subject to the regulation of USDA FSIS. During this inspection, Investigator-3 identified that Retail Customer-1 was offering for sale to individual members of the public a variety of fish, certain of which Investigator-3 identified as fish of the order Siluriformes, which based on Investigator-3’s training and experience, Investigator-3 believed had been imported from multiple countries, including Myanmar and possibly Bangladesh. For example, Investigator-3 found a package containing what Investigator-3 identified as whole frozen Batashi, again a species of fish of the order Siluriformes commonly referred to as catfish, which were labeled “Batashi” with a “best before” date of “November 2020” in packaging substantially identical to the packaging of whole frozen Batashi previously seized from Container-3. When Investigator-3 asked Retail Customer-1 to identify and substantiate the source of the fish of the order Siluriformes, Retail Customer-1 eventually produced an invoice, dated June 18, 2019, from AFD, one of its suppliers, on which invoice none of the fish of the order Siluriformes appeared. This invoice, however, did appear to feature a repetition of the labeling scheme of letters that appeared upon certain packages among the seized containers described in ¶ 9, *supra*, which purported to contain certain species of fish not subject to the FMIA but that in fact contained banned catfish. Based on my training and experience and work on this investigation, in particular my subsequent interview of multiple employees of AFD described in ¶ 13.c *infra*, I believe that this labeling scheme of letters reflects a code designed for use with both foreign trading companies and domestic retail customers doing business with AFD to disguise AFD’s importation and distribution of banned catfish.

d. On or about August 30, 2019, Investigator-3 conducted a site inspection at the premises of another retail customer in Paterson, New Jersey (“Retail Customer-2”), which is subject to the regulation of USDA FSIS. During this inspection, Investigator-3 identified that Retail Customer-2 was offering for sale to individual members of the public a variety of fish, certain of which Investigator-3 identified as fish of the order Siluriformes, which based on Investigator-3’s training and

experience, Investigator-3 believed had been imported from Bangladesh. When Investigator-3 asked Retail Customer-2 to identify and substantiate the source of the fish of the order Siluriformes, Retail Customer-2 eventually produced two invoices, dated February 19, 2019 and July 16, 2019, from AFD, one of its suppliers, on which invoices none of the fish of the order Siluriformes appeared. This invoice also appeared to reflect the same labeling scheme of letters that appeared upon certain packages among the seized containers described in ¶ 9, *supra*, which purported to contain certain species of fish not subject to the FMIA but that in fact contained banned catfish. As stated in the preceding paragraph, based on my training and experience and work on this investigation, in particular my subsequent interview of multiple employees of AFD described in ¶ 13.c *infra*, I believe that this labeling scheme of letters reflects a code designed for use with both foreign trading companies and domestic retail customers doing business with AFD to disguise AFD's importation and distribution of banned catfish.

Search of AFD Warehouse

13. On or about October 16, 2019, the Honorable Steven L. Tiscione, United States Magistrate Judge for the Eastern District of New York, issued a warrant authorizing a search of the AFD Warehouse and the seizure of certain evidence, including electronically stored information (the "Search Warrant").

14. On or about October 17, 2019, together with other law-enforcement officers from HSI, CBP, USDA, and NOAA by whom I am informed, I participated in executing the Search Warrant at the AFD Warehouse, during the course of which the following items, *inter alia*, were seized and the following interviews, *inter alia*, were conducted:

a. Inside of a walk-in freezer at the AFD Warehouse, law-enforcement personnel seized multiple packages of whole fish, which Officer-1, who again is trained and possesses multiple years of experience in the visual identification of fish species, identified as multiple different species of fish of the order Siluriformes commonly referred to as catfish, at least certain of which, based on the labels on the packages, appear to have originated in Myanmar and been imported into the United States in or about 2019.

b. Inside an office at the AFD Warehouse, numerous invoices for retail customers of AFD were identified in which the names of species of Siluriformes were listed, including invoices dated from at least in or about January 2018

onwards. For example, an invoice addressed to a retail customer in Doraville, Georgia ("Retail Customer-3"), and dated January 24, 2018 in typed text, included multiple line entries for "Boal" and "Ayer." Further, an invoice addressed to another retail customer in Richardson, Texas ("Retail Customer-4"), and dated August 6, 2018 in handwritten text, also included multiple line entries for "Boal" and "Ayer." As described above, "Boal" and "Ayer" are two species of fish of the order of Siluriformes commonly referred to as catfish, large quantities of both of which were seized from containers described in ¶ 9, *supra*, whose goods originated in Myanmar and were banned from importation into the United States since in or about 2017.

c. During the course of executing the Search Warrant, I identified that present among the employees of AFD at the AFD Warehouse were SHAKIL AHMED, BELAYET HUSSAIN, a/k/a "Belayet Sohel," and FIROZ AHAMMAD, the defendants, each of whom separately agreed to participate with me in an individual voluntary interview and made the following statements, in substance and in part:

i. AHMED stated that he has worked for AFD since in or about 2015. He stated that AFD had one vessel on the water at present that may contain a cargo including catfish. He further stated that together with MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," the defendant, HUSSAIN, and AHAMMAD, he developed the idea of labeling packages of purported carp with a lettering system to indicate which type of banned catfish was contained inside, a lettering system that was repeated in invoices to retail customers of AFD in order to disguise both the importation and distribution of the banned catfish. AHMED explained that after the imposition of the ban on importing catfish from certain countries, certain other companies with which AFD competes were importing the banned catfish, which led AFD to decide to smuggle them into the United States as well.

ii. HUSSAIN stated that he has worked for AFD since in or about 2015. He stated that AFD had been smuggling catfish into the United States for approximately seven to eight months. He explained that AFD had learned of the ban on catfish imported from Myanmar and Bangladesh and had consequently ceased their importation. Thereafter, however, AFD learned that other companies had continued to import catfish from those countries, which led AFD to resume importation into the United States. HUSSAIN claimed that he was not aware of who developed the lettering system to disguise the imports but was familiar with it.

iii. AHAMMAD stated that he has worked for AFD since in or about 2015. He stated that together with CHOWDHURY, HUSSAIN, and AHMED, he manages the day-to-day operations of AFD. AHAMMAD stated that AFD smuggled a small quantity of catfish into the United States in or about 2019; however, he claimed that he was unaware of the ban on catfish imports from Bangladesh and Myanmar. AHAMMAD claimed that he was aware of the lettering system to disguise the imports but did not order any of the exporters to use the code on their packages, which code was repeated in the invoices that AFD supplied to retail customers.

15. In the course of the execution of the Search Warrant, during which he consented to participate in the voluntary interview described in the preceding paragraph, FIROZ AHAMMAD, the defendant, also consented to a search of a cellphone the access code for which he supplied to law-enforcement officers and from which certain data was extracted at the AFD Warehouse before the cellphone was returned to AHAMMAD (the "Cellphone"). Based on my review of data extracted from the Cellphone, I have learned the following information, in substance and in part:

a. In the contacts of the Cellphone, a telephone number ending "1678" (the "1678 Number") is associated with the name "Masum Uncle Asia." In addition, on or about March 14, 2019, AHAMMAD texted to a third person the name "Mahmoud Chowdhury" together with the 1678 Number. As described in ¶ 15.b *infra*, I have also identified that that MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," the defendant, uses a certain email address (the "Chowdhury Email Address") which incorporates the name "Masum." For these reasons, I believe that CHOWDHURY is the user of the 1678 Number and in particular in communications with AHAMMAD on the Cellphone.

b. In the contacts of the Cellphone, a telephone number ending "7432" (the "7432 Number") is associated with the name "Shakil Bhai Asia." Based on my review of certain databases of public records, I have identified that SHAKIL AHMED, the defendant, is listed as the subscriber of the 7432 Number. For these reasons, I believe that AHMED is the user of the 7432 Number and in particular in communications with AHAMMAD on the Cellphone.

c. On or about March 12, 2018, in a series of texts exchanged on Viber between "Firoz" on the Cellphone, who I believe to be AHAMMAD, and "Masum Uncle Asia" on the 1678 Number, who I believe to be CHOWDHURY, CHOWDHURY wrote, in part: ". . . the second health certificate mentioning fish name i.e.

Ayer Boal singhi gulsha basha Pabda with weight in LBS is fake If you will present all the documents in Pakistan consulate than our company will be seized and we will go in jail because from the start we haven't declared Siluriformes and as per your advise we have ship this container without mentioning these items" CHOWDHURY proceeded to state, in part: "Please do not present any document in Pakistan consulate as comm inv packing list containing siluriform s fishes name" In response, AHAMMAD stated, "Ok." Based on my training and experience and work on this investigation, I believe that this exchange reflects a warning from CHOWDHURY to AHAMMAD not to list the name of certain species of fish of the order of Siluriformes commonly referred to as catfish, including "Ayer." "Boal," and "Pabda," because the consequences would include the seizure of AFD and "jail" for AHAMMAD and CHOWDHURY, because AFD has not previously disclosed its prior and continued importation of the banned catfish.

d. On or about February 14, 2019, in a series of texts exchanged on iMessage between "Firoz" on the Cellphone, who I believe to be AHAMMAD, "Masum Uncle Asia" on the 1678 Number, who I believe to be CHOWDHURY, and "Shakil Bhai Asia" on the 7432 Number, who I believe to be AHMED, CHOWDHURY wrote:

Fsis raided Paterson & queens. We must be very careful about our safety. Repeatedly warning how to keep silo fish but no proper response. We can hide 5-6 pallets out of 200-300 pallets but must be in a planed way. No matter of what tomorrow morning first thing is to make silo with other fish pallets & keep behind 3rd self 2nd raw. Both freezer same way. Hardly it will take one hour & must be supervised by both of you. Don't take chance. Hope both understand. Tnx

In response, AHAMMAD stated, "Ok Thank you," and AHMED stated, "Okay." Based on my training and experience and work on this investigation, I believe that this exchange reflects a warning from CHOWDHURY to AHAMMAD and AHMED in light of recent enforcement actions by USDA FSIS ("Fsis") on how to conceal imported quantities of banned catfish ("silo fish") in the walk-in freezers at AFD so as to avoid law-enforcement detection.

e. Finally, in multiple different series of texts exchanged on multiple platforms between "Firoz" on the Cellphone, who I believe to be AHAMMAD, and "Masum Uncle Asia" on the 1678 Number, who I believe to be CHOWDHURY, CHOWDHURY wrote to AHAMMAD concerning one or more species of banned catfish. For example, on or about May 20, 2018, in a series of

texts exchanged on Viber, CHOWDHURY wrote, in part: "Pl give your account details. Sent new breakup. All fishes big size. Also add Ayer 2 kg 40mc & 3kg 20mc Boal 2 kg 20 mc & 3kg 20mc." Again, "Ayer" and "Boal" are common names for two species of fish of the order of Siluriformes commonly referred to as catfish, large quantities of both of which were seized from containers described in ¶ 9, *supra*, whose goods originated in Myanmar and were banned from importation into the United States since in or about 2017. As a further example, on or about September 18, 2018, in a series of texts exchanged on Viber, CHOWDHURY sent a photograph of a "packing list" on the letterhead of Foreign Trading Company-1, which was dated September 18, 2018, and which listed large quantities of "Ayer" and "Boal."

Communications with Foreign Trading Companies

16. Following the execution of the Search Warrant, I participated in a series of communications with a representative of a foreign trading company ("Foreign Trading Company-4"), which is located in Singapore and which, based on my review of records obtained from CBP and AFD, I identified as a party to the importation of goods from Foreign Trading Company-1 in Myanmar to AFD in the United States. In the course of this series of communications, I received from the representative of Foreign Trading Company-4 copies of certain communications between AFD and Foreign Trading Company-1 and between AFD and both Foreign Trading Company-1 and Foreign Trading Company-4, two examples of which I detail below, in substance and in part:

a. On or about January 6, 2019, an unidentified individual sent an email from the AFD Email Address, referenced in ¶ 10 *supra*, to an email address that incorporates part of the name of Foreign Trading Company-1 and that is listed in shipping documents that I have reviewed as the email address for Foreign Trading Company-1. Attached to this email was a "pro forma invoice" on the letterhead of Foreign Trading Company-1, which was dated January 3, 2019. The invoice detailed the contents of an anticipated shipment from Myanmar to the United States, including large quantities of "Ayer" and "Batashi," two species of fish of the order Siluriformes commonly referred to as catfish, large quantities of both of which were seized from containers described in ¶ 9, *supra*, whose goods originated in Myanmar and were banned from importation into the United States since in or about 2017. The invoice was signed on behalf of Foreign Trading Company-1 in a name with illegible script, and on behalf of AFD in the name of "Firoz Ahammad" in legible script. Based on my training and experience, I am familiar with a practice prevalent in international commercial transactions

involving the shipment of goods of the exporter and importer exchanging signed copies of an invoice prior to shipment. Based on my training and experience and my participation in this investigation, I believe that this invoice, which documented the illegal importation of banned catfish into the United States, was signed by FIROZ AHAMMAD, the defendant, on behalf of AFD.

b. On or about April 29, 2019, an individual using the signature line "Belayet Hussain," which listed the name, address, and contact information for AFD, sent an email from an email address which was set to display as "Belayet Sohel" to an email address that incorporates part of the name of Foreign Trading Company-1 and that is listed in shipping documents that I have reviewed as the email address for Foreign Trading Company-1. The same email copied an email address that incorporates part of the name of Foreign Trading Company-4, as well as multiple other email addresses, including the Chowdhury Email Address, which based on my review of certain recent flight reservations for MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," the defendant, I know CHOWDHURY used in connection with making those flight reservations. In the body of the email, the sender, who I believe is BELAYET HUSSAIN, a/k/a "Belayet Sohel," the defendant, wrote, "Please find attached signed PI." Attached to this email was a "pro forma invoice" on the letterhead of Foreign Trading Company-1, which was dated April 27, 2019, and detailed the contents of an anticipated shipment from Myanmar to the United States, including again large quantities of "Ayer" and "Batashi." The invoice was signed on behalf of Foreign Trading Company-1 in a name with illegible script, and on behalf of AFD in the name of what appears to be "B Hussain" in largely legible script. Based on my training and experience and my participation in this investigation, I believe that this invoice, which documents the illegal importation of banned catfish into the United States, was signed by HUSSAIN on behalf of AFD and was distributed to Foreign Trading Company-1, Foreign Trading Company-4, and CHOWDHURY.

WHEREFORE, deponent respectfully requests that arrest warrants be issued for MAHMUD CHOWDHURY, a/k/a "Masum Chowdhury," a/k/a "Uncle Masum," SHAKIL AHMED, BELAYET HUSSAIN, a/k/a "Belayet Sohel," and FIROZ AHAMMAD, the defendants, and that they be arrested, and imprisoned or bailed, as the case may be.

/s/ Adebola Awe

ADEBOLA AWE
Special Agent
Department of Homeland Security
Homeland Security Investigations

Sworn to me through the transmission of this Complaint by reliable electronic means (telephone), pursuant to Federal Rule of Criminal Procedure 4.1, on February 17, 2021



THE HONORABLE KATHARINE H. PARKER
United States Magistrate Judge
Southern District of New York