

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

CR 21 217
INDICTMENT

4 UNITED STATES OF AMERICA,

5
6 - against -

7 CHRISTOPHER WINKLER, ASA GOSMAN,
8 BRYAN GOSMAN, AND BOB GOSMAN
9 CO., INC.,

10 Defendants.

Cr. No. _____
(T. 18, U.S.C. § 371; T. 18, U.S.C.
§§ 1341 & 2; T. 18, U.S.C. § 1343;
T. 18, U.S.C § 1519; T. 18, U.S.C. §
1512(c)(1); T. 18, U.S.C. § 1503)

AZRACK, J.

SHIELDS, M.J.

11 -----X
12 THE GRAND JURY CHARGES THAT:

13 **COUNT ONE**
14 **(Conspiracy - 18 U.S.C. § 371)**

15 **FACTUAL BACKGROUND**

16 At all relevant times herein:

17 **A. Defendants and Co-Conspirator**

18 1. Defendant CHRISTOPHER WINKLER (“WINKLER”) was a resident of Montauk in
19 Suffolk County, New York. WINKLER was a fishing captain and licensed National Oceanic and
20 Atmospheric Administration (“NOAA”) operator of the Fishing Vessel (*F/V*) *New Age*, a 45.7-
21 foot trawler/dragger. During 2014 through 2016, WINKLER owned the *New Age*.
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23 2. During 2014 and 2015, WINKLER routinely sold his catch to a corporation (referred
24 to herein by the pseudonym, “BronxCo”), which was a fish dealer in the New Fulton Fish Market
25 in the Bronx, New York. By July 2016, BronxCo had ceased operation, and the corporation was
26 dissolved in 2017. BronxCo is an unindicted co-conspirator.
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1 3. Defendant BOB GOSMAN CO., INC. (“GOSMANS”) was a wholesale and retail
2 seafood business in Montauk, New York. GOSMANS is criminally liable through the acts and
3 omissions of its agents and employees. The GOSMANS facility had a dock, cold storage, and
4 pack-out infrastructure that GOSMANS utilized to offload commercial fishing vessels.
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6 GOSMANS also had a federal dealer permit to account for fish that the company directly
7 purchased from fishing vessels. In 2014 through 2016, the *New Age* frequently offloaded its
8 catch at the GOSMANS facility in Montauk, New York. When WINKLER landed his catch at
9 GOSMANS, GOSMANS would collect a fee for each box (also referred to as “carton”) of fish
10 that came through the facility. In addition, trucks operated by GOSMANS would take fish landed
11 off of the *New Age* to BronxCo. In 2016, after BronxCo ceased commercial operations,
12 WINKLER sold some of his illegal catch to GOSMANS.
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14 4. Defendant ASA GOSMAN was a resident of Montauk in Suffolk County, New York.
15 During 2014 through 2016, he had a management and ownership role in GOSMANS. During this
16 time, ASA GOSMAN also had an ownership interest in BronxCo. ASA GOSMAN held the
17 federal dealer permit that BronxCo utilized to file dealer reports with NOAA. One of ASA
18 GOSMAN’S duties at BronxCo was to file dealer reports on behalf of that company.
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20 5. Defendant BRYAN GOSMAN was a resident of Montauk in Suffolk County, New
21 York. During 2014 through 2016, he had a management and ownership role in GOSMANS.
22 During this time, BRYAN GOSMAN also had an ownership interest in BronxCo. One of
23 BRYAN GOSMAN’S duties at BronxCo was to engage with WINKLER. On several occasions
24 during the conspiracy, BRYAN GOSMAN received a commission on illegal fluke that was sold
25 to BronxCo.
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1 **B. Legal Framework**

2 6. The commercial fishing industry was regulated by both state and federal authorities in
3 order to ensure a sustainable fishery in which harvesters could fairly participate, and to prevent
4 fish stocks from becoming depleted. Commercial harvesters, *i.e.*, commercial fishing vessels, are
5 required to comply with state and federal regulations. As part of regulating the fishery, limits are
6 set on the amount of fish a commercial harvester can catch and land. NOAA sets the limit each
7 state may harvest, and then each state divides that limit among its own commercial harvesters to
8 share.
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10 7. To comply with limits set by NOAA, New York established a system for commercial
11 fishing vessels that landed their catch at New York ports. *See* N.Y. Environmental Conservation
12 Law §§ 13-0340-b, 13-0340-f. At different times, New York set limits on the amount of each
13 type of fish a commercial harvester could catch in one day (called a daily trip limit), or a limit on
14 the amount of each type of fish a commercial harvester could catch in one week (called a weekly
15 limit). At some times the limit that would be set would be zero, meaning that no fish of that type
16 could be landed; the fishery for that type of fish was considered closed during those times.
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18 8. To help ensure that commercial harvesters were all abiding by the rules, and to help
19 monitor how much fish was being caught, vessels were required to create and submit various
20 reports about the fish that they caught. One requirement was that vessels had to complete a
21 Fishing Vessel Trip Report (“FVTR”) at the end of each trip. 50 C.F.R. § 648.7(b)(1)(i). The
22 FVTR required information such as date, vessel name, permit number, Coast Guard document
23 number, gear used, species caught, species weight, number of hauls, port of landing, and if
24 available, identity of the fish purchaser(s) (“fish dealers”). Vessel operators were required to sign
25 the FVTR under a text box that read, “I certify that the information provided on this form is true,
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1 complete and correct to the best of my knowledge, and made in good faith. Making a false
2 statement on this form is punishable by law (18 U.S.C. [§] 1001).” For vessels such as the *New*
3 *Age*, which held a Northeast multispecies permit, FVTRs were required to be mailed to a NOAA
4 office in Gloucester, Massachusetts, on a weekly basis. 50 C.F.R. § 648.7(f)(2). In addition,
5 federal regulations provided that “[c]opies of fishing log reports must be kept on board the vessel
6 and available for review for at least 1 year, and must be retained for a total of 3 years after the
7 date the fish were last possessed, landed, and sold.” 50 C.F.R. § 648.7(e)(2).

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10 9. In addition to setting limits on the amount of fish a commercial harvester could catch
11 at certain times, the federal government also required harvester and buyer to follow certain rules
12 when they sold and bought the fish. Federally permitted fishing vessels, such as those with a
13 federal summer flounder permit or a multispecies permit, *e.g.*, *New Age*, were required to sell
14 their catch to a federally-licensed fish dealer. 50 C.F.R. § 648.14(c).

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16 10. NOAA required that federally-licensed fish dealers submit weekly, electronic reports
17 detailing information about the fish they purchased. To submit the reports, the dealer logged onto
18 a NOAA website using a username and password. 50 C.F.R. § 648.7(a)(1), 648.7(f). The website
19 was maintained by a NOAA contractor, and the contractor forwarded the dealer information to
20 NOAA through a website that was available to designated NOAA components. NOAA was able
21 to generate reports from the website.

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23 11. Federally-licensed fish dealers were required to provide information about black sea
24 bass, bluefish, butterfish, dogfish, fluke, hake, monkfish, scup, skate, spots, and squid to NOAA.
25 The dealer reports included information such as date of landing, port of landing, catch vessel,
26 corresponding FVTR numbers, commercial grade, species, price, and weight. NOAA utilized the
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1 dealer reports as a check on the information submitted in FVTRs, as well as a source of
2 information for fisheries management.

3 12. Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act
4 (“Magnuson-Stevens”), at 16 U.S.C. § 1860(a), NOAA could seize and sell “any fish (or the fair
5 market value thereof) taken or retained, in any manner, in connection with or as a result of the
6 commission of any act prohibited by [a Magnuson-Stevens regulation].” Magnuson-Stevens
7 regulations made it unlawful for any person to “[m]ake any false statement or provide any false
8 information on, or in connection with, an application, declaration, record or report under the
9 [Magnuson-Stevens regulations].” 50 C.F.R. § 648.14(a)(5); *see also* 50 C.F.R. §§ 600.725(1),
10 648.14(a)(6). The State of New York had an independent property interest in fish that was landed
11 in New York in excess of applicable quota or during a closed season. *See* N.Y. Environmental
12 Conservation Law §§ 11-0519, 71-0907, 71-0909; N.Y. State Finance Law § 83.
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16 THE CONSPIRACY

17 13. Beginning on or about May 1, 2014, and continuing to on or about July 11, 2016, in
18 the Eastern District of New York, and elsewhere, CHRISTOPHER WINKLER, ASA GOSMAN,
19 BRYAN GOSMAN, and, acting through its agents and employees, BOB GOSMAN CO., INC.
20 did knowingly and willfully conspire, confederate, and agree with each other and with other
21 persons known and unknown to the Grand Jury, including BronxCo:
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23 (a) to defraud the United States by interfering with and obstructing, by deceitful and
24 dishonest means, a lawful function of NOAA: the collection, evaluation, and analysis
25 of biological, economic, and catch data;

26 (b) to knowingly and intentionally defraud NOAA and the State of New York of fish and
27 the fair market value thereof, and to obtain money and property from NOAA and the
28 State of New York by means of materially false and fraudulent pretenses and

1 representations, and for the purpose of executing such scheme and artifice, to place in
2 any post office and authorized depository for mail matter any matter and thing
3 whatever to be sent and delivered by the Postal Service, in violation of Title 18,
4 United States Code, Sections 1341 and 2; and

5 (c) to knowingly and intentionally defraud NOAA and the State of New York of fish and
6 the fair market value thereof, and to obtain money and property from NOAA and the
7 State of New York by means of materially false and fraudulent pretenses and
8 representations, and for the purpose of executing such scheme and artifice, to transmit
9 and cause to be transmitted writings, signs, and signals by means of wire
10 communication in interstate commerce, in violation of Title 18, United States Code,
11 Sections 1343 and 2.

12 MANNER AND MEANS

13 14. In furtherance of the conspiracy, WINKLER, ASA GOSMAN, BRYAN GOSMAN,
14 and GOSMANS employed the following manner and means:

15 (a) From May 2014 through June 2016, on at least seventy separate occasions,
16 WINKLER took his vessel the *New Age* out on fishing trips, on which he
17 cumulatively overharvested approximately 74,000 pounds more fluke, and
18 approximately 4,000 pounds more black sea bass, than he was allowed to catch under
19 applicable quotas during this time. WINKLER created FVTRs that failed to report
20 that he landed this fish in excess of applicable quotas.

21 (b) From May 2014 through April 2016, ASA GOSMAN and BRYAN GOSMAN used
22 their companies, BronxCo and then GOSMANS, to purchase illegal fish from
23 WINKLER.

24 (c) From May 2014 through April 2016, BronxCo paid WINKLER approximately
25 \$237,000 for unreported and overharvested fluke, and approximately \$15,000 for
26 unreported and overharvested black sea bass.
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- (d) From May 2016 through July 2016, GOSMANS paid WINKLER approximately \$16,000 for unreported and overharvested fluke.
- (e) Depending on what business was purchasing illegal fish from WINKLER, to avoid detection of their scheme by New York State and federal authorities, WINKLER, ASA GOSMAN, BRYAN GOSMAN, BronxCo, and GOSMANS coordinated to enter false amounts and species of fish on records that were required to be submitted to NOAA. This included multiple species of fish including black sea bass, bluefish, butterfish, dogfish, goosfish, fluke, hake, monkfish, scup, skate, spots, and squid.
- (f) WINKLER mailed and caused to be mailed false records from New York State to NOAA's Regional Fisheries Management Office in Massachusetts, and BronxCo, ASA GOSMAN, and GOSMANS caused false dealer reports to be transmitted electronically across state lines to NOAA.

OVERT ACTS

15. In furtherance of the conspiracy, and to effect the objects thereof, there was committed by at least one of the co-conspirators in the Eastern District of New York, at least one of the following overt acts, among others:

Illicit Fishing Activity

Overt Act 1: Between on or about May 1, 2014, and August 28, 2015, on at least one occasion, WINKLER harvested fluke in excess of the applicable quota.

Overt Act 2: Between on or about April 20, 2015, and August 25, 2015, on at least one occasion, WINKLER harvested black sea bass during a closed season.

Overt Act 3: On or about April 25, 2015, while engaged in fishing activity aboard the *New Age*, WINKLER intentionally discarded and caused to be intentionally discarded overharvested fluke when the *New Age* was approached by a Coast Guard vessel.

1 *Overt Act 25:* Between on or about May 1, 2014, and August 25, 2015, on at least one
2 occasion, GOSMANS used its own vehicle and driver to transport fluke, which the *New Age*
3 landed in excess of the applicable quota, to BronxCo.
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5 *Overt Act 26:* Between on or about April 20, 2015, and August 25, 2015, on at least one
6 occasion, WINKLER sold black sea bass to BronxCo during a closed season.

7 *Overt Act 27:* Between on or about April 20, 2015, and August 25, 2015, on at least one
8 occasion, at the direction of BRYAN GOSMAN, BronxCo paid WINKLER for black sea bass
9 that was not reported on WINKLER'S FVTR.
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11 *Overt Act 28:* Between on or about May 1, 2014, and April 19, 2016, on at least one
12 occasion, at the direction of BRYAN GOSMAN, BronxCo generated a check to pay WINKLER
13 for fish, which included fluke that WINKLER harvested in excess of the applicable quota.

14 *Overt Act 29:* Between on or about May 1, 2014, and April 1, 2016, on at least one
15 occasion, WINKLER deposited into his bank account a BronxCo check that paid for fish,
16 including fluke taken in excess of the applicable quota, which was unreported on WINKLER'S
17 FVTR and BronxCo's dealer report.
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19 *Overt Act 30:* Between on or about March 12, 2015, and July 31, 2015, on at least one
20 occasion, BronxCo paid BRYAN GOSMAN a commission that corresponded to the quantity of
21 unreported and over-quota fluke purchased by BronxCo.
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23 *Overt Act 31:* Between on or about March 12, 2015, and July 31, 2015, on at least one
24 occasion, BRYAN GOSMAN deposited a commission check for unreported and over-quota
25 fluke into a bank.
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1 NOAA. NOAA and New York State each had the legal right to seize and sell over-quota fluke
2 and black sea bass, as well as other fish that were unreported on FVTRs.

3 18. On or about the dates set forth in the table below, within the Eastern District of New
4 York, the defendant,

5
6 CHRISTOPHER WINKLER,

7 having knowingly and intentionally devised a scheme and artifice to defraud NOAA and the
8 State of New York of fish and the fair market value thereof, and to obtain money and property
9 from NOAA and New York State by means of materially false and fraudulent pretenses and
10 representations (to wit: that the fish represented as caught on a Fishing Vessel Trip Report were a
11 certain species, quantity, and weight, when in fact, the fish were not as represented on federal
12 forms, and were in excess of New York State daily trip limits), and for the purpose of executing
13 such scheme and artifice, placed in any post office and authorized depository for mail matter any
14 matter and thing whatever to be sent and delivered by the Postal Service:
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COUNT	DATE (On or about, and between)	FISHING VESSEL TRIP REPORT NUMBER
2	May 18, 2016, and May 31, 2016	12516571
3	May 25, 2016, and June 24, 2016	12516577
4	May 26, 2016, and June 24, 2016	12516578
5	June 3, 2016, and June 24, 2016	12516585

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24 All in violation of Title 18, United States Code, Sections 1341 and 2.
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COUNT	DATE (On or about, and between)	DEALER REPORT WITH CONFIRMATION NUMBER
6	May 19, 2016, and June 27, 2016	12490289
7	May 25, 2016, and June 27, 2016	12552696
8	May 26, 2016, and June 27, 2016	12552701
9	May 27, 2016, and June 27, 2016	12679749
10	June 3, 2016, and June 27, 2016	12597618

All in violation of Title 18, United States Code, Sections 1343.

COUNT ELEVEN
(Obstruction - 18 U.S.C. § 1519)

22. Paragraphs 1 through 12 of Count One of this Indictment are hereby re-alleged and incorporated by reference herein.

23. Between on or about May 18, 2016, and June 24, 2016, within the Eastern District of New York, the defendant,

CHRISTOPHER WINKLER,

did knowingly falsify and make false entries into records and documents (to wit: at least one Fishing Vessel Trip Report, also known as a fishing log) with the intent to impede, obstruct, and influence the proper administration of any matter, 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, Section 1519.

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COUNT FOURTEEN
(Obstruction - 18 U.S.C. § 1503)

28. Paragraphs 1 through 12 of Count One of this Indictment are hereby re-alleged and incorporated by reference herein.

29. Between on or about March 7, 2017, and June 8, 2017, within the Eastern District of New York, the defendants,

ASA GOSMAN, BRYAN GOSMAN, and acting through
its agents and employees, BOB GOSMAN CO., INC.,

did corruptly influence, obstruct, and impede, and endeavor to influence, obstruct, and impede the due administration of justice (to wit: a federal grand jury investigation in the Eastern District of New York) by withholding emails and documents that were responsive to at least one grand jury subpoena.

All in violation of Title 18, United States Code, Section 1503.

FORFEITURE ALLEGATION
(Conspiracy, Mail Fraud, and Wire Fraud)

30. The allegations contained in Counts One through Ten of this Indictment are hereby re-alleged and incorporated by reference as if fully set forth herein for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Sections 371, 981(a)(1)(C), 1341, 1343, 1956(c)(7), and 1961(1) and Title 28, United States Code, Section 2461(c).

31. Upon conviction of one or more of the offenses alleged in Counts One through Ten of this Indictment, the convicted defendants shall forfeit to the United States, pursuant to Title 18, United States, Code, Section 981(a)(1)(C), any property, real or personal, constituting or derived from proceeds traceable to the fraud offenses, *i.e.*, Conspiracy, Mail Fraud, and Wire Fraud.

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32. If any of the property, as a result of any act or omission of the defendants:

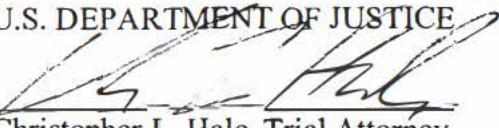
- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;



The United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), incorporated by Title 18, United States Code, Section 2461(c).

All pursuant to Title 18, United States Code, Sections 371, 981(a)(1)(C), 1341, 1343, 1956(c)(7), and 1961(1) and Title 28, United States Code, Section 2461(c).

JEAN E. WILLIAMS
ACTING ASSISTANT ATTORNEY
GENERAL, ENVIRONMENT AND
NATURAL RESOURCES DIVISION
U.S. DEPARTMENT OF JUSTICE

Dated: April 20, 2021

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Foreperson


Date