

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

TERRY ROE

Criminal Case No. 1:20CR83WES-PAS

Violation:

18 U.S.C. § 371 -  
(Conspiracy to Commit Wire Fraud and  
Traffic in Counterfeit Goods)

18 U.S.C. §§ 1341 and 2 -  
(Mail Fraud and Aiding and Abetting)

18 U.S.C. §§ 2320 and 2 -  
(Trafficking in Counterfeit Goods and  
Aiding and Abetting)

**INDICTMENT**

The Grand Jury charges that:

**COUNT 1**

**Introduction**

At all times relevant to this Indictment, unless herein stated:

1. D.O., located in Minot, ND, was a company that sold uniform items and gear to the United States military and its Base Supply Centers, the National Guard, police and other governmental agencies. D.O. employed between 15 and 30 people.
2. Defendant TERRY ROE ("ROE") was a manager at D.O. As a manager, ROE was responsible for selecting vendors, supervising the salesforce, and running the day-to-day operations of the company.
3. R.L. was a salesman employed by D.O.
4. D.R. was a manager at D.O. and ROE's father.

5. Ramin Kohanbash ("Kohanbash") operated and controlled California Surplus, Inc., Gan Eden, LLC, and FR-HQ, LLC, businesses operated from the same physical location in Elizabeth, NJ. Kohanbash used these three businesses to wholesale military uniforms and gear to D.O. and other entities that sold uniform items and gear to the United States military and its Base Supply Centers. Kohanbash was D.O.'s primary vendor.

6. Bernard Klein ("Klein") brokered the manufacture of clothing, apparel and gear made in China and elsewhere to purchasers in the United States, including Kohanbash.

7. Title 10, United States Code, Section 2533a, "The Berry Amendment," provides that uniforms, fabrics, gear and other specifically designated items sold to the United States Department of Defense ("DOD") must be produced in the United States.

8. Title 19, United States Code, Sections 2501, *et al.*, "The Trade Agreements Act," provides that products sold to the United States government must be made in the United States or in a Trade Agreements Act ("TAA") designated country. China is not a designated country under the TAA.

9. United Associates Limited ("United") was a company located in North Kingstown, RI, which manufactured and sold protective clothing for the United States military and other government agencies. United sold protective clothing, including cold weather and flame resistant apparel, for the military and government agencies. United sold to wholesalers, including D.O., and Base Supply Centers.

10. United owned the trademark United Join Forces®, a name and associated design for use in clothing registered with the U.S. Patent and Trademark Office (“USPTO”).

11. MultiCam® as a word was a registered trademark with the USPTO for use in conjunction with a variety of goods to include clothing and garments. Crye Precision, LLC owned the trademark Multicam®.

12. United manufactured a Multicam® APEC parka that was used by the United States Air Force, including personnel deployed to Afghanistan. Among other specifications, the parka was made with fabric having Near-Infrared (NIR) signature management technology. The NIR technology allowed the service member to appear at the same radiation level as the surrounding terrain, thus making the wearer more difficult to detect by NIR Image Converters, such as certain night vision goggles. The parka was also water-resistant.

13. FREE ® is an acronym for “Fire Resistant Environmental Ensemble.” FREE®, as a name and associated design, was registered with the USPTO. FREE® was trademarked for use in clothing for protection against fire and was intended for military and law enforcement personnel.

14. Polartec®, as a name and design, was a registered trademark with the USPTO for use in clothing.

15. Primaloft®, as a name and design, was a registered trademark with the USPTO for use in clothing.

16. ADS®, as a design plus words, letters and numbers, was a registered trademark with the USPTO for use in non-protective clothing for military and law enforcement.

17. GEN III ECWCS®, as a word and design, was a registered trademark with the USPTO for use in cold weather apparel.

### The Conspiracy

18. From in or about January 2013, and continuing until in or about October 2018, in the District of Rhode Island and elsewhere, defendant TERRY ROE, Ramin Kohanbash and Bernard Klein, knowingly, willfully and unlawfully combined, conspired and agreed together and with each other, and with others known and unknown to the Grand Jury, to:

a. commit wire fraud, by knowingly devising a scheme and artifice to defraud, and for obtaining money and property from the United States government and from wholesalers who supply the United States government, by means of materially false and fraudulent pretenses, representations and promises, through the transmission in interstate commerce of wire communications, contrary to 18 U.S.C. § 1343; and,

b. traffic in counterfeit goods, namely clothing, apparel and gear, while knowingly using on and in connection with such goods, counterfeit marks, the use of which was likely to cause confusion, mistake, and deception, contrary to 18 U.S.C. § 2320(a)(1).

### Manner and Means of the Conspiracy

The manner and means by which the co-conspirators sought to accomplish and did accomplish the purpose of the conspiracy included, among others, the following:

19. It was part of the conspiracy that ROE repeatedly caused D.O. to order military uniform items and gear from Kohanbash.
20. It was further part of the conspiracy that Kohanbash received sample genuine military uniform items and gear from ROE and other employees at D.O. operating under ROE's direction. Kohanbash subsequently sent the samples to Klein, who arranged for the manufacture of counterfeit reproductions of those items in China (hereinafter "the counterfeit goods").
21. It was further part of the conspiracy that Klein emailed photographs of the counterfeit goods, as well as their hangtags and labels, to Kohanbash for approval prior to mass production of the counterfeit goods.
22. It was further part of the conspiracy that Klein sent samples of the counterfeit goods to Kohanbash for approval prior to mass production of the counterfeit goods.
23. It was further part of the conspiracy that Kohanbash communicated with ROE regarding what, if any, changes to make to the counterfeit goods or their hangtags and labels.
24. It was further part of the conspiracy that Klein caused the counterfeit goods to be manufactured and delivered to Kohanbash at his warehouse in New Jersey.

25. It was further part of the conspiracy that ROE caused D.O. to acquire the counterfeit goods from Kohanbash. These counterfeit goods bore hangtags and labels that falsely represented that the goods were manufactured by, or contained materials made by, trademark holders or their licensees.

26. It was further part of the conspiracy that Kohanbash, ROE and others at D.O. operating at ROE's direction provided D.O.'s customers with false certification letters which falsely represented that the counterfeit goods were made in compliance with the Berry Amendment, or which falsely represented that the counterfeit goods were TAA compliant.

27. It was further part of the conspiracy that between August 2015 and December 2017, Kohanbash paid ROE over \$60,000. ROE cashed the checks and deposited them into his personal checking accounts.

#### **Acts in Furtherance of the Conspiracy**

In furtherance of the conspiracy and to accomplish its objectives and purposes, at least one of the following overt acts, among others, was committed by one or more of the co-conspirators in the District of Rhode Island and elsewhere:

28. In or about March 2013, Kohanbash emailed D.R. and R.L. a laboratory report purportedly from a laboratory in Hong Kong, which had tested the flammability of "FR Rainsuite Material" described as "Multicam." The Country of Origin listed on the report was China. Kohanbash used material, like that which was the subject of the laboratory report, for ponchos and rain suits that he sold to D.O. D.O. sold such items

to third party vendors for sale on "FedMall," an e-commerce ordering system operated by the Defense Logistics Agency for Department of Defense, and Federal, State and local government agencies. The rain suits were advertised on "FedMall" as "Made in U.S.A." D.O. also sold these rain suits to Base Supply Centers located on Air Force Bases, and was approved to sell the rain suits on "GSA Advantage," an online ordering service offering products for sale to the U.S. military and other government agencies.

29. In or about May 2014, Kohanbash emailed employees of D.O., including ROE, a laboratory report reflecting the flammability testing of fleece hoods used by the military. The report, which bore Chinese characters and an address in Zhujiang Province, China, purported to reflect that the fleece material "did not ignite" upon testing.

30. In or about August 2015, Kohanbash, using a California Surplus, Inc. company check, paid ROE \$6,000, which ROE signed and cashed at his personal bank on August 7, 2015.

31. In or about February 2016, Kohanbash, using a California Surplus, Inc. company check, paid ROE \$39,617.50, which ROE deposited into his personal bank account.

32. In or about March 2016, Kohanbash emailed ROE a link to United's online catalogue description of the Multicam® APEC parka.

33. In or about March 2016, Kohanbash emailed Klein regarding hangtags needed for a hood manufactured by Klein.

34. In or about March 2016, Klein responded with a photograph of the FREE® hangtag and asked Kohanbash to confirm whether they will keep the FREE® hangtag or remove it from the hood.

35. In or about April 2016, Kohanbash drop shipped an order of counterfeit Primaloft® parkas to the United States Air Force in fulfillment of an order placed with him by D.O. salesman R.L.

36. In or about May 2016, Klein emailed photographs of a United Join Forces® label for the Multicam® APEC parka to Kohanbash for approval.

37. In or about July 2016, Kohanbash emailed ROE photographs of a counterfeit United Multicam® APEC parka. The email provided that these were photographs of the pre-production sample of the parka.

38. In or about January 2017, Kohanbash drop shipped counterfeit Polartec® fleece jackets to Barksdale Air Force Base, in fulfillment of an order placed with Kohanbash by R.L.

39. In or about March 2017, Kohanbash emailed ROE a photograph of a United label and asked: "Pls look at the label for the APEC jacket Do u want to change anything pls."

40. In or about March 2017, an employee at D.O. requested that Kohanbash remove "Made in China" from ponchos ordered by D.O. from Kohanbash. Kohanbash emailed R.L., ROE and another employee of D.O.: "Ok Sir We will remove Made in China from the Poncho as a service to you."



41. In or about October 2017, ROE caused an employee of D.O. to email Kohanbash purchase orders for 320 counterfeit Multicam® APEC parkas.

42. In or about November 2017, D.O. shipped counterfeit Multicam® APEC parkas purchased from Kohanbash to Base Supply Centers located on Air Force Bases. The counterfeit parkas lacked the NIR-technology that made the wearer difficult to detect by night vision goggles.

43. In or about December 2017, after a Base Supply Center became aware that it had received counterfeit United Multicam® APEC parkas from D.O., counsel for Crye Precision emailed Kohanbash about the violation and the danger counterfeit Multicam® could pose to military service members. Kohanbash forwarded these emails to ROE.

44. In or about May 2018, ROE called United regarding D.O.'s 2017 sales of counterfeit Multicam® APEC parkas. In this call, ROE stated that D.O. purchased the counterfeit parkas from Kohanbash, and ROE falsely denied knowledge of the counterfeit United labels on the Multicam® APEC parkas, assured United that it had returned all of the counterfeit parkas to Kohanbash, and falsely asserted that D.O. would not do business with Kohanbash again.

45. In or about June 2018, R.L., acting at ROE's direction, sent a false Country of Origin certificate to a Base Supply Center. The certificate was signed by "RAYMOND CHOEN" of FR-HQ LLC, in Elizabeth, NJ, and dated June 26, 2018. The certificate falsely represented that the fleece jackets purchased by the Base Supply Center were "fully in compliance with the Berry Amendment (10 U.S.C.

2533a)...meaning that the textile end products including all of the components thereof have been grown, reprocessed, reused, or produced in the United States or one of its territories.”

46. In or about June 2018, R.L., acting at ROE’s direction, emailed the above-referenced Base Supply Center in reference to Kohanbash’s company, FR-HQ, and the Country of Origin certificate. In the email, R.L. falsely represented, “I have been to his office and I have been in the factory he uses to make products for us. It is a fairly large operation. We have been using his products for a long time and he has produced quality products for us at competitive prices.”

47. In or about August 2018, Klein caused a container from China containing 2,400 counterfeit FREE® hoods and 2,622 counterfeit Polartec® fleece pullovers to be delivered to Kohanbash.

48. In or about August 2018, Kohanbash shipped 60 counterfeit Polartec® fleece pullovers to United in North Kingstown, RI as part of a controlled purchase directed by government investigators.

49. In or about September 2018, D.O. purchased 200 counterfeit FREE® hoods from Kohanbash.

50. In or about September 2018, D.O. offered counterfeit Primaloft® jackets and trousers for sale on GSA Advantage that were falsely advertised as “Made in the USA” by “California Outdoor & Surplus.” Goods offered for sale on GSA Advantage must be TAA compliant.

51. In or about September 2018, D.O. shipped counterfeit GEN III Level 7 jackets and trousers to the Rhode Island National Guard located in East Greenwich, RI as part of a controlled purchase directed by government investigators. The jackets contained counterfeit Primaloft® and ADS® hangtags and labels.

52. In or about October 2018, Kohanbash possessed for distribution thousands of counterfeit FREE® hoods in his warehouse like those purchased by D.O. in September 2018. The sewn-in care tags falsely represented: "Highly breathable. Luffed [*sic*] fibers trap air, retaining body heat. Permanently flame resistant." A second sewn-in tag falsely asserted, "NFPA 2112 COMPLIANT," which is an industry standard for flame resistant attire. The counterfeit FREE® hoods were not flame resistant.

All in violation of 18 U.S.C. § 371.

## COUNT 2

53. The allegations contained in paragraphs 1 through 52 of this Indictment are re-alleged in this Count and are incorporated by reference as if fully set forth herein.

54. From in or about January 2013, and continuing until in or about October 2018, in the District of Rhode Island and elsewhere, defendant TERRY ROE and others known and unknown to the Grand Jury, with the intent to defraud, devised, and willfully participated in with knowledge of its fraudulent nature, a scheme and artifice to defraud, and for obtaining money and property from the United States government and from wholesalers who supply the United States government, by means of false and fraudulent pretenses, representations and promises.

### Manner and Means of the Scheme to Defraud

The manner and means by which ROE sought to accomplish and did accomplish the scheme to defraud and obtain money and property by false and fraudulent pretenses, representations and promises included, among others, the following:

55. It was part of the scheme to defraud that ROE and D.O. employees operating at ROE's direction falsely represented to the U.S. military, its Base Supply Centers, and other government wholesalers that the uniform items and gear sold by D.O. were made in compliance with the Berry Amendment and/or were TAA compliant.

56. It was further part of the scheme to defraud that ROE and D.O. employees operating at ROE's direction falsely represented to the U.S. military, its Base Supply Centers, and other government wholesalers that the uniform items and gear sold by D.O. were genuine goods manufactured or licensed by the trademark holders whose trademarks were affixed to the goods or the hangtags and labels attached to the goods.

57. It was further part of the scheme to defraud that ROE and a D.O. employee operating at ROE's direction made false representations to a Base Supply Center and a wholesaler of military goods about the nature of Kohanbash's business and the continuing business relationship between D.O. and Kohanbash. ROE and others at D.O. operating at his direction made these false representations to appease customers who had questioned the authenticity of D.O.'s products.

### Execution of the Scheme to Defraud

58. On or about September 25, 2018, in the District of Rhode Island and elsewhere, defendant TERRY ROE for the purpose of executing the scheme and artifice to defraud described above, knowingly caused to be delivered by private and commercial interstate carrier, according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressed, the following matter: a box sent by D.O. and delivered by United Parcel Service to the Rhode Island National Guard in East Greenwich, RI containing six counterfeit GEN III Level 7 jackets bearing false hangtags and labels, which falsely represented that the items (1) contained genuine Primaloft® insulation; (2) were “Official GEN III ECWCS Authorized for U.S. Army Issue;” and, (3) “available exclusively through ADS” and bearing the ADS® trademarked symbol.

All in violation of 18 U.S.C. §§ 1341 and 2.

### COUNT 3

59. The allegations contained in paragraphs 1 through 58 of this Indictment are re-alleged in this Count and are incorporated by reference as if fully set forth herein.

60. On or about September 25, 2018, in the District of Rhode Island and elsewhere, defendant TERRY ROE, did intentionally traffic and attempt to traffic in counterfeit goods, specifically counterfeit GEN III Level 7 jackets bearing counterfeit Primaloft® and ADS® hangtags and labels, on and in connection with such goods.

In violation of 18 U.S.C. § 2320(a)(1).

### FORFEITURE ALLEGATION

61. Upon conviction of Count 1 (Conspiracy to commit wire fraud and traffic in counterfeit goods), Count 2 (Mail Fraud), and Count 3 (Trafficking in counterfeit goods) defendant TERRY ROE shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(1), any property, real or personal, involved in the offense, and any property traceable to such property, including, but not limited to, a sum of money equal to the total amount of any property, real or personal, which constitutes or is derived from proceeds involved in the offense, in the form of a money judgment.

62. If any forfeitable property, as a result of any act or omission of the defendant, cannot be located upon the exercise of due diligence, has been transferred, sold to, or deposited with a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property which cannot be divided without difficulty, it is the intention of the United States, pursuant to 18 U.S.C. § 982(b)(1), incorporating 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable

property described in paragraph above. All pursuant to 18 U.S.C. § 982(a)(1) and Rule 32.2(a), Federal Rules of Criminal Procedure

A TRUE BILL:



Grand Jury Foreperson

AARON WEISMAN  
UNITED STATES ATTORNEY

A handwritten signature in blue ink, appearing to read 'Sandra R. Hebert', written over a horizontal line.

SANDRA R. HEBERT  
Assistant United States Attorney

A handwritten signature in blue ink, appearing to read 'Zachary A. Cunha', written over a horizontal line.

ZACHARY A. CUNHA  
Assistant United States Attorney

A handwritten signature in blue ink, appearing to read 'Lee Vilker', written over a horizontal line.

LEE VILKER  
Assistant United States Attorney

A handwritten signature in blue ink, appearing to read 'William J. Ferland', written over a horizontal line.

WILLIAM J. FERLAND  
Criminal Division Chief

Date: 9/30/2020