



# The Shrimp e-Advocate

The Southern Shrimp Alliance (SSA) is a non-profit alliance of members of the U.S. shrimp industry in eight states committed to preventing the continued deterioration of America's shrimp industry and to ensuring the industry's future viability. SSA serves as the national voice for the shrimp fishermen and processors in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas.

FRAUD AND MISLABELING

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## Seafood Wholesaler Owners Plead Guilty to Selling Falsely Labeled Fish, Smuggling, and Misbranding of Seafood Products

**Karen L. Blyth and David H.M. Phelps pleaded guilty today in federal court in Mobile, Ala., to 13 felony offenses for their roles in purchasing and selling farm raised Asian catfish and Lake Victoria perch falsely labeled as grouper; selling foreign farm-raised shrimp falsely labeled as U.S. wild caught shrimp, selling shrimp that falsely claimed to be larger, more expensive shrimp than they actually were; and for buying fish they knew had been illegally imported into the United States.**

(Media-Newswire.com) - Karen L. Blyth and David H.M. Phelps pleaded guilty today in federal court in Mobile, Ala., to 13 felony offenses for their roles in purchasing and selling farm raised Asian catfish and Lake Victoria perch falsely labeled as grouper; selling foreign farm-raised shrimp falsely labeled as U.S. wild caught shrimp, selling shrimp that falsely claimed to be larger, more expensive shrimp than they actually were; and for buying fish they knew had been illegally imported into the United States. The defendants pleaded guilty to one conspiracy count, nine violations of the Lacey Act, two counts of receiving smuggled goods and one misbranding count. A third defendant charged in the case, John J.

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Popa, of Lisbon, Conn., had previously pleaded guilty to similar offenses.

Blyth, of Paradise Valley, Ariz., was the co-owner and president of two companies, Consolidated Seafood Enterprises Inc., located in Phoenix, and Reel Fish and Seafood, Inc., located in Pensacola, Fla., which traded in a variety of seafood products. Phelps, of Scottsdale, Ariz., co-owned Consolidated Seafood and Reel Fish and served as a vice president in both companies. John J. Popa managed and co-owned Reel Fish with Blyth and Phelps and served as the company's vice president.

The defendants admitted using Consolidated Seafood to buy frozen fillets of a type of farm raised catfish from Vietnam with the genus Pangasius, called sutchi, that they knew had been imported into the United States and falsely declared as wild caught sole, in order to avoid anti-dumping duties that were owed on this product.

"These defendants have admitted to flouting federal laws in a misguided scheme to defraud the American consumer," said Ignacia S. Moreno, Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice. "Today's convictions send the message that we will pursue others who engage in illegal activity. This type of scam floods the market with falsely labeled fish, thereby misleading consumers, artificially deflating the cost of wild-caught fish, and depriving law-abiding fishermen of the full measure of their labor."

"These prosecutions should send a clear message that instances of consumer fraud will be vigorously prosecuted and that this U.S. Attorney's Office will continue to protect local seafood consumers and all components of the local seafood market and industry," said Kenyen R. Brown, U.S. Attorney for the Southern District of Alabama.

Anti-dumping duties went into effect on frozen fillets of sutchi, basa and swai in Jan. 2003, after an investigation by the Department of Commerce established that this product was being sold in the United States at less than fair value and were therefore injuring domestic catfish producers. In all, the defendants conspired to falsely label and buy approximately 283,500 pounds of farm raised sutchi, which was imported without \$145,625 of anti-dumping duties having been paid.

"These anti-dumping duties are designed to protect domestic catfish producers from unfair foreign competition," said Raymond R. Parmer, Jr., Special Agent in Charge, U.S. Department of Homeland Security, Homeland Security Investigations. "Those that conspire to and buy such a product knowing that it was imported illegally will be brought to justice and punished."

"We will continue to investigate all false labeling and substitution of this country's fish and seafood, and work to protect fisheries in the Southeast region and the American consumer which are harmed

by this kind of criminal activity," said Harold Robbins, Special Agent in Charge, Southeast Region, National Oceanic and Atmospheric Administration, Office of Law Enforcement.

Some of the fish seized during the investigation tested positive for malachite green and Enrofloxin, both of which are banned from U.S. food. Malachite green is a chemical compound often used in overseas fish farming, and Enrofloxin is an antibiotic used in some foreign fish farming but for which there is zero tolerance by the Food and Drug Administration in food sold in the United States. The defendants ultimately received 81,000 pounds of this illegally imported sutchi, and sold 34,100 pounds of it to Reel Fish, which in turn sold it to customers in Alabama, Florida and elsewhere.

The defendants would change the marking on this sutchi and other imported basa to grouper, and sell it to customers in Alabama, Florida and Mississippi as more desirable grouper, at a higher cost. The defendants sold more than 100,000 pounds of this falsely labeled basa and sutchi to these customers.

Blyth and Phelps also admitted to buying more than 25,000 pounds of Lake Victoria perch from Africa, mislabeling and selling this fish as grouper to customers in Alabama and Florida at a higher cost, and in greater quantities than if it had been accurately labeled.

The defendants also admitted that they conspired to mislabel and create false labels for shrimp they sold to customers in these areas. The defendants, through Reel Fish, would repackage farm raised foreign shrimp as U.S. wild caught shrimp. The defendants would also falsely label the shrimp as being larger than they were. By falsely labeling the shrimp in these manners, the defendants were able to sell more and charge more for the shrimp that they sold.

Sentencing for Blyth and Phelps is set for May 4, 2011. Popa's sentencing is set for Feb. 22, 2011. The maximum penalty for each smuggling count is up to 20 years in prison and a \$250,000 fine. The maximum penalty for each violation of the Lacey Act includes up to five years in prison and a \$250,000 fine. The maximum penalty for each misbranding count includes up to three years in prison and a \$250,000 fine.

The case was investigated by the National Oceanic and Atmospheric Administration, Office of Law Enforcement; the Department of Homeland Security, Immigration and Customs Enforcement; the U.S. Air Force Office of Special Investigations; and the Department of Defense, Defense Criminal Investigative Service. The case was prosecuted by Wayne D. Hettenbach and Susan L. Park of the Environmental Crimes Section of the Department of Justice Environment and Natural Resources Division, and Deborah A. Griffin of the U.S. Attorney's Office for the Southern District of Alabama.

