

IN THE UNITED STATES COURT OF INTERNATIONAL TRADE

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UNITED STATES,)	
)	
Plaintiff,)	
)	
v.)	Court No. 11-00203
)	
RUPARI FOOD SERVICES, INC., and)	
WILLIAM VINCENT STILWELL, a/k/a)	
“RICK” STILWELL,)	
)	
Defendants.)	
_____)	

COMPLAINT

The United States, through its undersigned attorneys, brings this action against defendants Rupari Food Services, Inc. (“Rupari”) and William Vincent Stilwell, a/k/a “Rick” Stilwell (“Stilwell”), and alleges the following:

1. This action is brought by the United States to recover civil penalties from defendants for violations of 19 U.S.C. § 1592(a).

JURISDICTION

2. This Court possesses jurisdiction to entertain this action under 28 U.S.C. § 1582.

3. Defendant Rupari is a Florida corporation headquartered at 1208 West Newport Drive, suite 100, Deerfield Beach, FL 33442. Rupari’s registered agent is CorpDirect Agents Inc., 515 East Park Avenue, Tallahassee, FL 32301.

4. Upon information and belief, defendant Stilwell is a resident of the State of Florida and is currently employed by Rupari at its offices at 1208 West Newport Drive, suite 100, Deerfield Beach, FL 33442.

5. On or about April 9, 2001, U.S. Customs and Border Protection (“CBP”) issued a demand for penalties under 19 U.S.C. §§ 1592(a) to Rupari and Stilwell pursuant to section 1592(b).

6. This action is timely under 19 U.S.C. § 1621 because defendants have executed waivers of any statute of limitations defense for any action filed on or before June 21, 2011.

FACTS

7. This action involves the attempted entry into the United States of five seized containers of Chinese crawfish tail meat by means of documents falsely claiming the crawfish tail meat originated in Thailand.

8. Rupari and Stilwell submitted documents to CBP that contained false country of origin statements in violation of 19 U.S.C. § 1592(a).

A. The Subject Entries

9. The United States Department of Commerce (“Commerce”) began and conducted an antidumping investigation concerning freshwater crawfish tail meat from the People’s Republic of China in 1997.

10. Yupeng Fisheries, Ltd. (“Yupeng”), a Chinese producer and importer of crawfish tail meat, was among the firms investigated by Commerce. Yupeng failed to respond adequately to Commerce’s requests for information, and did not secure a separate antidumping duty rate from the China-wide antidumping duty rate.

11. Commerce published the final determination of its antidumping investigation of freshwater crawfish tail meat from China in August 1997. *See Freshwater Crawfish Tail Meat From The People’s Republic Of China*, 62 Fed. Reg. 41,347 (Dep’t of Commerce Aug. 1, 1997)

(final determination). Under the antidumping order, antidumping duties of 201.63 percent are assessed on imports into the United States of Chinese freshwater crawfish tail meat, in all its forms, regardless of how it is packed, preserved, or prepared. *Id.*

12. Rupari had a relationship with Yupeng prior to the entry of the antidumping order described in paragraph 11, and in 1997, Rupari purchased freshwater crawfish tail meat from Yupeng that was imported into the United States.

13. Subsequent to the imposition of the antidumping duty order described in paragraph 11, Yupeng created Seamaster Trading Company Ltd. (“Seamaster”) in Thailand at some time in November 1997.

14. Yupeng shipped crawfish tail meat from China to Seamaster in Thailand. Seamaster, which was run by Yupeng employees, had the crawfish repacked in Thailand by another company and marked it as a product of Thailand. Seamaster then imported the repacked the Chinese crawfish tail meat into the United States.

15. Invoices, packing lists, bills of lading, and shipping manifests filed with Thailand Customs show that Yupeng shipped crawfish tail meat from China to Seamaster in Thailand.

16. In Thailand, Seamaster employed Sea Bonanza Foods Co. Ltd. (“Sea Bonanza”) to repack the Chinese crawfish tail meat. On or about November 8, 1997, Seamaster and Sea Bonanza entered into a contract whereby: (1) Seamaster delivered crawfish tail meat from Yupeng in China; and (2) Sea Bonanza purchased new cartons into which the Chinese crawfish tail meat was repacked. Seamaster paid Sea Bonanza for the cost of buying the new cartons in which the crawfish tail meat was repacked. Seamaster paid only 25 Baht per carton under the contract. Seamaster then marked the repacked crawfish tail meat as a product of Thailand and

imported or attempted to import at least nine entries into the United States for sale to Rupari.

17. Between approximately March 13, 1998, and April 18, 1998, Seamaster, as the importer of record, entered four containers of crawfish tail meat into the commerce of the United States through the Los Angeles/Long Beach Seaport by means of documents filed with CBP that claimed the merchandise originated in Thailand. These four entries were assigned entry numbers 595-2083110-4, 595-2086016-0, 595-2086012-9, and 595-2086014-5. Rupari was listed as the notifying party on certificates of origin that accompanied these four entries.

18. These four entries were entered by means of false, material statements about the country of origin of the crawfish tail meat. Seamaster listed all four entries listed in paragraph 17 as free of antidumping duties. All four entries were subject to 201.63 percent antidumping duties under the antidumping order described in paragraph 11. Seamaster did not classify the entries as subject to antidumping duties, nor did it remit any amount of the applicable duties to CBP.

19. Seamaster, as the importer of record, attempted to enter five more entries of crawfish tail meat into the United States between approximately June 13, 1998, and June 20, 1998. The entries numbers are 595-2093518-6, 595-2093516-0, 595-2093510-3, 595-2093512-9, and 595-2093514-5. Attachment A.

20. Seamaster attempted to enter these five entries of crawfish tail meat by means of false, material statements about the country of origin. Seamaster classified the crawfish tail meat in these five entries under as 1605.40.1000/free of duty under the U.S. Harmonized Tariff Schedule ("HTSUS"). Seamaster labeled all five entries as products of Thailand. The crawfish tail meat was subject to antidumping duties of 201.63 percent because it originated in China, but Seamaster did not classify the merchandise properly. Attachment A.

21. CBP examined and seized the five entries of crawfish tail meat under 19 U.S.C. § 1595a(c)(2)(E) because the cartons were intentionally marked as products of Thailand in violation of 19 U.S.C. § 1304 when they originated in China.

B. Rupari's And Stilwell's Violations Of Section 1592(a)

22. On or about June 26, 1998, CBP issued a request for information to Seamaster, as importer of record, asking for substantiation for the claimed Thai origin of the five seized entries, and asking for an explanation of Seamaster's relationships with Rupari and Sea Bonanza.

23. On or about July 1, 1998, Rupari, through its employee Stilwell, filed a letter with CBP on behalf of Seamaster, the importer of record, that the crawfish tail meat in the five seized entries was processed and packed by Sea Bonanza in Thailand from raw crawfish harvested from Mayham Tingham Fisheries Co. Ltd. ("Mayham Tingham") in Thailand.

24. On or about July 6, 1998, CBP issued a second request for information to Seamaster asking for records from Sea Bonanza or Mayham Tingham to substantiate the facts in the letter, referenced in paragraph 23 above, claiming that the crawfish tail meat was processed in Thailand from raw crawfish harvested in Thailand.

25. On or about July 10, 1998, Rupari, through its employee Stilwell, filed documents in response to this second request for information. One of those documents was a letter written by Seamaster that authorized Rupari to act as Seamaster's representative in all dealings with CBP related to the release of the seized entries of Chinese crawfish tail meat.

26. On or about July 13, 1998, CBP issued a third request for information to Seamaster again asking for further substantiation of the Thai country of origin claim for the five seized entries of crawfish tail meat.

27. On or about July 13, 1998, Rupari, through its employee Stilwell, filed a series of documents with CBP. Among those documents was a purported letter from Mayham Tingham stating that it cultivated live crawfish, which it sold to Sea Bonanza, complete with invoices for the sale of live crawfish. There was also a letter purportedly from Sea Bonanza stating that it purchased raw crawfish from Mayham Tingham that it processed into tail meat for sale to Seamaster, which was what was being imported into the United States.

28. The documents Rupari, through its employee Stilwell, filed with CBP, described in paragraphs 23, 25, and 27 above, contained false statements about the actual country of origin of the crawfish tail meat compromising the five seized entries.

29. Sea Bonanza did not process raw crawfish from Thailand into tail meat for Seamaster. Sea Bonanza merely repacked boxes of frozen crawfish tail meat that Seamaster had delivered from Yupeng in China into new boxes, and then marked the boxes as products of Thailand. The five seized entries, described in paragraphs 19 and 20 above, consisted of repacked boxes of Chinese crawfish tail meat.

30. Rupari and Stilwell had actual knowledge that the crawfish tail meat in the five seized entries, described in paragraphs 19 and 20 above, did not originate in Thailand.

31. On or about July 25, 1998, Yupeng sent a facsimile to Rupari and Stilwell proposing to replace the order of Chinese crawfish tail meat Rupari placed with Seamaster by sending a new shipment of crawfish tail meat mixed in with a larger order of whole crawfish.

32. On or about July 28, 1998, CBP monitored a call between an employee of Rupari and a confidential informant during which the Rupari employee stated that Rupari purchased transhipped Chinese crawfish tail meat from Seamaster in Thailand.

33. On or about August 5, 1998, the Agricultural Affairs Office of the American Embassy in Thailand confirmed that there was no commercial production of indigenous freshwater crawfish in Thailand.

34. Rupari and Stilwell knew that the documents that they filed with CBP, described in paragraphs 23, 25, and 27 above, contained false representations that Thailand was the country of origin of the crawfish tail meat Seamaster attempted to import into the United States, described in paragraphs 19 and 20 above.

35. The false statements contained in the documents described in paragraphs 23, 25, and 27 above were material because they had the potential to influence CBP's assessment of antidumping duties.

36. Filing the documents described in paragraphs 23, 25, and 27 above with CBP violated 19 U.S.C. § 1592(a) because the documents constitute an attempt by Rupari and Stilwell to enter merchandise into the United States by means of material, false statements.

37. The domestic value of the merchandise Rupari and Stilwell attempted to enter into the United States was \$2,784,636.17. Attachment A.

38. As a result of their fraudulent violations of 19 U.S.C. § 1592, Rupari and Stilwell are liable to the United States for penalties in an amount equal to the domestic value, described in paragraph 37 above, in accordance with 19 U.S.C. § 1592(c)(1).

C. CBP's Administrative Proceedings

39. On or about April 9, 2001, CBP issued a pre-penalty notice to Rupari and Stiwell proposing a monetary penalty against these defendants in an amount equal to the domestic value of all four entered entries and the five seized entries of Chinese crawfish tail meat described in paragraphs 17 and 19.

40. On or about November 21, 2001, CBP issued a penalty notice to Rupari and Stilwell assessing penalties against these parties for fraudulent violations of 19 U.S.C. § 1592(a) based on their actions in aiding the entry and attempting to enter the Chinese crawfish tail meat described in paragraphs 17 and 19 by means of false, material representations concerning the country of origin of the merchandise.

41. On or about May 14, 2002, CBP issued a demand for unpaid duties against Rupari and Stilwell to recover the antidumping duties that were avoided on the entries described in paragraph 17 above.

42. All administrative notices and demands for payment issued by CBP were processed in accordance with applicable laws and procedures.

43. Neither Rupari nor Stilwell nor any other entity have paid the penalties the Government seeks in this action.

PRAYER FOR RELIEF

COUNT I

44. The allegations contained in paragraphs 1 through 43 are re-alleged and incorporated herein by reference.

45. Defendants entered or introduced the merchandise described in paragraphs 19 and 20 into the United States by means of false statements, and these actions constitute fraud in violation of 19 U.S.C. § 1592(a).

46. By reason of the violations described in paragraphs 23, 25, and 27, defendants are liable to the United States for the maximum penalty pursuant to 19 U.S.C. § 1592(c)(1), which is the domestic value of the merchandise.

COUNT II

47. The allegations contained in paragraphs 1 through 46 are re-alleged and incorporated herein by reference.

48. If the violations referred to in paragraphs 23, 25, and 27 were not the result of fraud on the part of the defendants, then the violations were the result of gross negligence in violation of 19 U.S.C. § 1592(a).

49. By reason of the violations described in paragraphs 23, 25, and 27, defendants are liable to the United States for the maximum penalty pursuant to 19 U.S.C. § 1592(c)(2)(A), which is the lesser of the domestic value of the merchandise or four times the lawful duties, taxes, and fees of which the United States is or may be deprived.

COUNT III

50. The allegations contained in paragraphs 1 through 49 are re-alleged and incorporated herein by reference.

51. If the violations referred to in paragraphs 23, 25, and 27 were neither the result of fraud nor the result of gross negligence, then the violations were the result of negligence in violation of 19 U.S.C. § 1592(a).

52. By reason of the violations described in paragraph 23, 25, and 27, defendants are liable to the United States for the maximum penalty pursuant to 19 U.S.C. § 1592(c)(3)(A), which is the lesser of the domestic value of the merchandise or two times the lawful duties, taxes, and fees of which the United States is or may be deprived.

WHEREFORE, the United States respectfully requests that the Court:

- (A) enter judgment for the United States against Rupari and Stilwell for a penalty in the amount of \$2,784,636.18 for fraudulent violations of 19 U.S.C. § 1592(a), but absent judgment under Count I, we request in the alternative that the Court;
- (B) enter judgment for the United States against Rupari and Stilwell for a penalty in the maximum amount for grossly negligent violations of 19 U.S.C. § 1592(a), but absent judgment under Counts I or II, we request in the alternative that the Court;
- (C) enter judgment for the United States against Rupari and Stilwell for a penalty in the maximum amount for negligent violations of 19 U.S.C. § 1592(a); and
- (D) grant the United States such other relief as the Court deems appropriate.

Respectfully submitted,

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