

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
) Case No.
 v.)
) Violations: Title 18, United States Code,
SHU BEI YUAN, a/k/a KATHY YUAN) Sections 371, 542, 545, and 2
)

COUNT ONE

The SPECIAL AUGUST 2009-1 GRAND JURY charges:

At times material to this indictment:

A. **Introduction**

1. SHU BEI YUAN, a/k/a KATHY YUAN, was a citizen and national of the Republic of China, and was employed by California-based honey import companies, including Blue Action Enterprise, Inc. (“Blue Action”), 7 Tiger Enterprises, Inc. (“7 Tiger”), and Honey World Enterprise, Inc. (“Honey World”), that acted as registered importers of record to import and enter Chinese-origin honey into the United States.

2. Hung Ta Fan, a/k/a Michael Fan, was a citizen and national of Taiwan, Republic of China, and owned and operated multiple California-based honey import companies, including Blue Action, 7 Tiger, and Honey World.

3. Chinese Honey Broker 1 was a citizen and national of China living in mainland China who acted as Hung Ta Fan’s principal broker for Chinese-origin honey between approximately 2004 and 2006.

4. Alfred L. Wolff GmbH was an international trading company with subsidiaries, affiliates, and representative offices located throughout the world, and was headquartered and had

its principal place of business in Hamburg, Germany. Alfred L. Wolff GmbH and its subsidiaries, affiliates, and representative offices imported, exported, distributed, sold, and processed raw material and food products, including honey.

5. Alfred L. Wolff GmbH had subsidiaries and affiliates in Germany (“Alfred L. Wolff Honey GmbH”), the United States (“Alfred L. Wolff, Inc.”), Beijing, China (“Alfred L. Wolff (Beijing) Trade Co. Ltd., China”), and Hong Kong, China (“Alfred L. Wolff Company Ltd., Hong Kong, China”) (collectively referred to herein as “ALW Food Group”). Alfred L. Wolff GmbH exercised control over ALW Food Group through its managers and executives, including its Managing Director, Alexander Wolff, who functioned as the chief executive officer.

6. Alfred L. Wolff Honey GmbH operated ALW Food Group’s honey business in Europe, and conducted its business through its corporate executives including Jurgen Becker, a citizen and national of Germany who acted as the Managing Director and advised ALW Food Group executives regarding the importation and sale of honey in the United States, including Chinese-origin honey.

7. Alfred L. Wolff, Inc. was incorporated in Delaware and had its principal place of business in Park Ridge, Illinois and later Chicago, Illinois. Alfred L. Wolff, Inc. served as the United States operational base for ALW Food Group. Alfred L. Wolff, Inc. imported honey and related commodities into the United States that it sold to domestic customers, including food manufacturers, processors, distributors, and packers. Alfred L. Wolff, Inc. used a customs house broker or agent to enter goods into the United States. Alfred L. Wolff, Inc. conducted its business through its corporate executives including:

- a. Sven Gehricke, a citizen and national of Germany, who acted as Alfred L. Wolff, Inc.'s General Manager from about 1999 to about 2003. Between approximately 1999 and 2006, Gehricke also held other positions at Alfred L. Wolff, Inc., including Chairman, President, Treasurer, and Secretary.
 - b. Thomas Marten, a citizen and national of Germany, who acted as the General Manager responsible for the operations of Alfred L. Wolff, Inc. from approximately January 2004 to approximately August 2007, with responsibility for contractual arrangements and payments for honey imported into the United States. Thomas Marten reported directly to Alexander Wolff.
 - c. Thomas Gerkmann, a citizen and national of Germany, who acted as the National Sales Manager – Bee Products from approximately December 2003 to December 2006 and was responsible for the purchase of bee products, including honey; the importation of honey into the United States, including maintaining relationships with customs house brokers; and the sale of honey to U.S. customers.
8. Alfred L. Wolff (Beijing) Trade Co. Ltd., China, had its principal place of business in Beijing, China and arranged on behalf of ALW Food Group to obtain Chinese-origin honey from honey suppliers in China for shipment to the United States. Alfred L. Wolff (Beijing) Trade Co. Ltd., China conducted its business through its corporate executives including Yi Liu, a citizen and national of China who acted as the General Manager responsible for locating, arranging, and sourcing Chinese-origin honey from China into the United States.
9. Alfred L. Wolff Company Ltd., Hong Kong, China, had its principal place of business in Hong Kong, China and coordinated on behalf of ALW Food Group the purchase,

finance, and shipment of honey and related products from China to the United States. Alfred L. Wolff Company Ltd., Hong Kong, China conducted its business through its corporate executives including Thomas Weickert, a citizen and national of Germany who acted as General Manager from approximately 2003 through 2005; and Marcel Belten, a citizen and national of Germany who succeeded Weickert as General Manager from approximately August 2005 through approximately 2008.

10. In December 2001 the United States Department of Commerce (“DOC”) determined that Chinese-origin honey was being sold into the United States at artificially low prices and imposed “antidumping” duties on Chinese-origin honey. Between June 2004 and October 2005 antidumping duties on Chinese-origin honey was approximately 183%. Honey originating from South Korea, Taiwan, and Thailand was not subject to antidumping duties.

11. The United States Department of Homeland Security, Bureau of Customs and Border Protection (“CBP”), was responsible for, among other things, the examination of merchandise entering the United States to ensure that it was admissible and in compliance with United States laws, and the assessment and collection of taxes, fees, and duties on imported merchandise, including antidumping duties. A customs house broker or agent normally handled the process of entering goods into the United States on behalf of an importer, which included the filing of entry documents with CBP based on information provided by the importer.

12. CBP entry forms 3461 (Entry/Immediate Delivery) and 7501 (Entry Summary) required importers to provide specific and truthful information relating to imported merchandise, including a brief description of the merchandise and the merchandise’s manufacturer, value, and country of origin.

B. The Conspiracy

13. Beginning in or about February 2005 and continuing to approximately June 2006, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

SHU BEI YUAN, a/k/a KATHY YUAN,

defendant herein, Hung Ta Fan, Blue Action, 7 Tiger, Honey World, ALW Food Group, Alexander Wolff, Jurgen Becker, Thomas Marten, Yi Liu, Thomas Weickert, Marcel Belten, Sven Gehricke, and Chinese Honey Broker 1, did agree and conspire with each other, and others known and unknown, to defraud the United States, and to commit offenses against the United States, namely:

(a) To enter and introduce into the commerce of the United States imported merchandise by means of a false and fraudulent practice, false statement, and fraudulent or false paper, in violation of Title 18, United States Code, Section 542; and

(b) To fraudulently and knowingly import into the United States merchandise contrary to law, and sell such merchandise, knowing the same to have been imported into the United States contrary to law, in violation of Title 18, United States Code, Section 545.

14. The purpose of the conspiracy was to import, enter, and sell Chinese-origin honey into the United States and avoid the payment of antidumping duties by falsely declaring that the honey originated from countries other than China.

15. It was part of the conspiracy that YUAN, Fan, Blue Action, 7 Tiger, Honey World, ALW Food Group, Alexander Wolff, Jurgen Becker, Thomas Marten, Thomas Gerkmann, Yi Liu, Thomas Weickert, Marcel Belten, Sven Gehricke, Chinese Honey Broker 1, and others known and unknown, caused Chinese-origin honey to be mislabeled as originating from countries other than China, including South Korea, Taiwan, and Thailand, and shipped, imported, and fraudulently

entered the mislabeled honey into the United States in order to avoid antidumping duties.

16. It was further part of the conspiracy that YUAN and other members of the conspiracy, including ALW Food Group executives located in the Northern District of Illinois, communicated with one another by email to further the scheme by which Chinese-origin honey would be and was transshipped through South Korea, Taiwan, and Thailand; imported and entered into the United States by means of false and fraudulent statements and documents; and sold to United States customers.

17. It was further part of the conspiracy that after being advised by Thomas Gerkmann that a high volume of imports into the United States by a single company would be noticed by CBP, YUAN advised Fan to create and use multiple companies to import and enter Chinese-origin honey into the United States to avoid scrutiny by CBP.

18. It was further part of the conspiracy that YUAN provided Fan with fake and fraudulent country of origin certificates that Fan used to falsely declare that Chinese-origin honey originated from countries other than China.

19. It was further part of the conspiracy that YUAN and Fan used Blue Action, 7 Tiger, and Honey World to sell and supply multiple full container loads (“FCLs”) of Chinese-origin honey to ALW Food Group pursuant to contracts that specified the honey was to be other-than-Chinese in origin.

20. It was further part of the conspiracy that between approximately March 2005 and June 2006, YUAN, Fan, ALW Food Group, Alexander Wolff, Jurgen Becker, Thomas Marten, Thomas Gerkmann, Yi Liu, Thomas Weickert, Marcel Belten, Sven Gehricke, Chinese Honey Broker 1, and others known and unknown, caused Blue Action and 7 Tiger to fraudulently import and enter into

the United States approximately 6 entries of Chinese-origin honey falsely declared as Korean, Taiwanese, and Thai honey for ALW Food Group, having a total declared entry value of approximately \$290,464 and consisting of:

- a. 1 entry falsely declared as Korean origin with a declared value upon entry of approximately \$38,976;
- b. 1 entry falsely declared as Thai origin with a declared value upon entry of approximately \$19,488; and
- c. 4 entries falsely declared as Taiwanese origin with a declared value upon entry of approximately \$232,000;

thereby avoiding antidumping duties otherwise applicable to Chinese-origin honey totaling approximately \$533,872.

21. It was further part of the conspiracy that between approximately March 2005 and June 2006, YUAN, Fan, ALW Food Group, Alexander Wolff, Jurgen Becker, Thomas Marten, Thomas Gerkmann, Yi Liu, Thomas Weickert, Marcel Belten and Sven Gehricke, and others known and unknown, caused Alfred L. Wolff, Inc. to make 47 wire transfers totaling approximately \$4,508,536 from its bank account in Chicago to Blue Action, 7 Tiger, and Honey World as payment for the Chinese-origin honey fraudulently imported and entered into the United States.

22. It was further part of the conspiracy that between approximately November 2005 and June 2006, Fan made 15 wire transfers totaling approximately \$334,890 from Fan's California-based personal bank account and the California-based bank accounts of his companies, including Blue Action and Honey World, to the bank accounts of his Chinese honey suppliers, including Chinese Honey Broker 1 in Wuxi, China, and an individual in Thailand as payment for Chinese-origin honey that Fan and YUAN falsely declared as Korean and Thai in origin upon

importation and entry into the United States.

23. It was further part of the conspiracy that the co-conspirators misrepresented, concealed, and hid, and caused to be misrepresented, concealed, and hidden, the acts and the purposes of the acts done in furtherance of the conspiracy.

C. Overt Acts

24. In furtherance of the conspiracy, and to accomplish one or more of the objects of the conspiracy, members of the conspiracy committed and caused to be committed one or more of the following overt acts:

a. On or about March 17, 2005, Alfred L. Wolff, Inc. issued purchase order number 660 to Blue Action for 200 full container loads of "Taiwan White Honey," valued at approximately \$4,572,000.

b. On or about March 22, 2005, YUAN signed purchase order 660 on behalf of Blue Action.

c. On or about May 25, 2005, Gerkmann emailed YUAN with a carbon copy to Fan, Marten and Gerhicke and stated:

as I told you yesterday we are late with our most important customer with 35 FCL for the month of May. 20 FCL on PO 660 and 15 FCL on PO 624.

Our customer is very pissed with us and he told us that he had to buy at our competitors to get the product what he need.

Please think about a price deduction for this late containers what we can offer to our customer in order to keep the customer happy.

As I mentioned earlier we are under a very high pressure to serve our customers in time in a high fallen honey market. Prices from China are fallen again and we need to help our customers.

d. On or about May 25, 2005, YUAN replied to the foregoing email and stated “Once again, I felt terrible for all problems we caused you. As I always said that your satisfaction is very important to us, Michael and I will do our best to make you and your customer happy.”

e. On or about May 26, 2005, Thomas Gerkmann emailed YUAN regarding “Late delivery on PO 624 and 660” and stated “...we will discuss it when you are back and I hope to see you and Michael here in Chicago next week that we can discuss this as well as a lot more business for future. Korea etc.”

f. On or about June 27, 2005, Gerkmann emailed YUAN and stated “Our customer will accept this load but wants a discount from 50\$/MT – I told I have to speak with my supplier. Can you do this 50\$-Discount?”

g. On or about June 27, 2005, YUAN replied to the foregoing email and stated “OK, I ACCEPT.”

h. On or about July 20, 2005, Gerkmann emailed YUAN regarding “Korea Honey” and stated “GOOD NEWS THE KOREA HONEY IS OK AS WELL PLEASE START TO SHIP MORE[.]”

i. On or about August 8, 2005, Alfred L. Wolff, Inc. issued purchase order number 737 to Honey World for 10 full container loads of “Korean White Honey,” valued at approximately \$219,008.

j. On or about August 9, 2005, YUAN signed purchase order 737 on behalf of Honey World.

k. On or about September 29, 2005, YUAN emailed Gerkmann and stated:

. . . I'm still in Beijing, and will stay here for more days. . . .

I had dinner with my Chinese Honey supplier yesterday, they still want to do some export business to US or Europe. . . . Of course, they also want to do more honey business, but I think maybe I should take a short break, therefore, I rejected them this time.

l. On or about September 29, 2005, Gerkmann responded to the foregoing email and stated "What about some honey? Will you go back to Michael or will you start new biz? What are your plans? Or will you stay in Chicago."

m. Between approximately August 2005 and June 2006, YUAN, Fan, ALW Food Group, Alexander Wolff, Jurgen Becker, Thomas Marten, Thomas Gerkmann, Yi Liu, Thomas Weickert, Marcel Belten, Sven Gehricke, Chinese Honey Broker 1, and others known and unknown, caused Blue Action, 7 Tiger, and Honey World to fraudulently import and enter into the United States approximately 6 entries of Chinese-origin honey falsely declared as Korean, Taiwanese, and Thai honey for ALW Food Group, including the following entries, each of which constitutes a separate overt act:

- (1) On or about March 9, 2006, 7 Tiger imported and entered into the United States approximately 18,560 kilograms of Chinese-origin honey falsely declared as Thai honey for ALW Food Group in fulfillment of purchase order 737, having a total declared value upon entry of approximately \$19,488, thereby avoiding approximately \$35,818 in antidumping duties, which honey Alfred L. Wolff, Inc. caused to be delivered to a wholesale honey packer;
- (2) On or about March 27, 2006, 7 Tiger imported and entered into the United States approximately 37,120 kilograms of Chinese-origin honey falsely declared as Korean honey for ALW Food Group in fulfillment of purchase order 660, having a total declared value upon entry of approximately \$38,976, thereby avoiding approximately \$71,637 in antidumping duties, which honey Alfred L. Wolff, Inc. caused to be delivered to a wholesale honey packer;

- (3) On or about May 13, 2006, Blue Action imported and entered into the United States approximately 37,120 kilograms of Chinese-origin honey falsely declared as Taiwanese honey for ALW Food Group in fulfillment of purchase order 660, having a total declared value upon entry of approximately \$46,400, thereby avoiding approximately \$85,283 in antidumping duties, which honey Alfred L. Wolff, Inc. caused to be delivered to a wholesale honey packer;
- (4) On or about May 27, 2006, Blue Action imported and entered into the United States approximately 37,120 kilograms of Chinese-origin honey falsely declared as Taiwanese honey for ALW Food Group in fulfillment of purchase order 660, having a total declared value upon entry of approximately \$46,400, thereby avoiding approximately \$85,283 in antidumping duties, which honey Alfred L. Wolff, Inc. caused to be delivered to a wholesale honey packer;
- (5) On or about May 27, 2006, Blue Action imported and entered into the United States approximately 37,120 kilograms of Chinese-origin honey falsely declared as Taiwanese honey for ALW Food Group in fulfillment of purchase order 660, having a total declared value upon entry of approximately \$46,400, thereby avoiding approximately \$85,283 in antidumping duties, which honey Alfred L. Wolff, Inc. caused to be delivered to a wholesale honey packer; and
- (6) On or about June 10, 2006, Blue Action imported and entered into the United States approximately 74,240 kilograms of Chinese-origin honey falsely declared as Taiwanese honey for ALW Food Group in fulfillment of purchase order 660, having a total declared value upon entry of approximately \$92,800, thereby avoiding approximately \$170,566 in antidumping duties, which honey Alfred L. Wolff, Inc. caused to be delivered to a wholesale honey packer.

All in violation of Title 18, United States Code, Sections 371 and 2.

COUNT TWO

The SPECIAL AUGUST 2009-1 GRAND JURY further charges that:

1. The allegations of paragraphs 1 through 12, and 14 through 24, of Count One are incorporated as though fully set forth herein.

2. On or about March 9, 2006, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

SHU BEI YUAN, a/k/a KATHY YUAN,

defendant herein, and others known and unknown to the Grand Jury, entered and introduced, and caused others to enter and introduce, into the commerce of the United States imported merchandise by means of a false and fraudulent practice, false statement, and fraudulent or false paper, including records and CBP entry forms 3461 and 7501, bearing entry number K80-0920281-4, that falsely declared that approximately 18,560 kilograms of Chinese-origin honey in fulfillment of purchase order 660, with a declared value upon entry of approximately \$19,488, originated from Thailand, when in fact the honey originated in China, thereby causing losses to the United States totaling approximately \$35,818 in uncollected antidumping duties.

In violation of Title 18, United States Code, Sections 542 and 2.

COUNT THREE

The SPECIAL AUGUST 2009-1 GRAND JURY further charges that:

1. The allegations of paragraphs 1 through 12, and 14 through 24, of Count One are incorporated as though fully set forth herein.

2. On or about May 27, 2006, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

SHU BEI YUAN, a/k/a KATHY YUAN,

defendant herein, and others known and unknown to the Grand Jury, entered and introduced, and caused others to enter and introduce, into the commerce of the United States imported merchandise by means of a false and fraudulent practice, false statement, and fraudulent or false paper, including records and CBP entry forms 3461 and 7501, bearing entry number K80-0924008-7, that falsely declared that approximately 37,120 kilograms of Chinese-origin honey in fulfillment of purchase order 660, with a declared value upon entry of approximately \$46,400, originated from Taiwan, when in fact the honey originated in China, thereby causing losses to the United States totaling approximately \$85,283 in uncollected antidumping duties.

In violation of Title 18, United States Code, Sections 542 and 2.

COUNT FOUR

The SPECIAL AUGUST 2009-1 GRAND JURY further charges that:

1. The allegations of paragraphs 1 through 12, and 14 through 24, of Count One are incorporated as though fully set forth herein.

2. On or about March 27, 2006, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

SHU BEI YUAN, a/k/a KATHY YUAN,

defendant herein, and others known and unknown to the Grand Jury, entered and introduced, and caused others to enter and introduce, into the commerce of the United States imported merchandise by means of a false and fraudulent practice, false statement, and fraudulent or false paper, including records and CBP entry forms 3461 and 7501, bearing entry number K80-0920377-0, that falsely declared that approximately 37,120 kilograms of Chinese-origin honey in fulfillment of purchase order 660, with a declared value upon entry of approximately \$38,976, originated from Korea, when in fact the honey originated in China, thereby causing losses to the United States totaling approximately \$71,637 in uncollected antidumping duties.

In violation of Title 18, United States Code, Sections 545 and 2.

COUNT FIVE

The SPECIAL AUGUST 2009-1 GRAND JURY further charges that:

1. The allegations of paragraphs 1 through 12, and 14 through 24, of Count One are incorporated as though fully set forth herein.

2. On or about June 10, 2006, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

SHU BEI YUAN, a/k/a KATHY YUAN,

defendant herein, and others known and unknown to the Grand Jury, knowingly and willfully, with intent to defraud the United States, did make out and pass, and cause others to make out and pass, through a customhouse, false and fraudulent documents and papers, including records and CBP entry forms 3461 and 7501, bearing entry number K80-0924651-4, that falsely declared that approximately 74,240 kilograms of Chinese-origin honey in fulfillment of purchase order 660, with a declared value upon entry of approximately \$92,800, originated from Taiwan, when in fact the honey originated in China, thereby causing losses to the United States totaling approximately \$170,566 in uncollected antidumping duties.

In violation of Title 18, United States Code, Sections 545 and 2.

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY