

Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff

NO. CR11-0304RSM

v.

SUNNY AHUJA, and  
BEEZ INDIA NATURAL PRODUCTS,  
Defendants.

**I. INTRODUCTION**

Sentencing is scheduled for Thursday April 16, 2014, at 9:30 a.m. As to defendant Sunny Ahuja, the government recommends a sentence of 60 days custody, and restitution in the amount of one hundred nine thousand, nine hundred twenty-eight dollars and sixty cents (\$109,928.60). As to the defendant Beez India Natural Products, the government further recommends a sentence of a \$250,000.00 fine and five years organization

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3 probation with all of the conditions recommended by U.S. Probation. The government  
4 has no objections to the factual recitations in the Final Presentence Reports.

5 **II. FACTUAL BACKGROUND**

6 In July 2008, the general manager of Acme Foods, a Seattle based food  
7 distribution company, contacted the Food and Drug Administration Office of Criminal  
8 Investigations regarding a shipment of honey they had purchased from Beez India  
9 Natural Honey. Mr. Maung reported that they had purchased a shipping container of  
10 product (valued at \$41,189.00) that was purportedly 100% pure honey from Beez India,  
11 but later learned that the product was actually 75% corn syrup after several of their  
12 customers called and complained about the product. Follow-up testing by the FDA  
13 revealed the product was in fact adulterated with over 75% corn syrup. Additional  
14 investigation by FDA-OCI and Immigration and Customs Enforcement (ICE) –  
15 Homeland Security Investigations (HSI) revealed Beez India has sold adulterated honey  
16 to several other U.S. Importers between 2008 and 2011, and that Beez India was  
17 continuing to ship adulterated honey to the U.S. despite repeated complaints from  
18 customers.

19 According to Acme Foods, their purchasing manager, Kim Flores, met Mr. Ahuja  
20 at a food products show in the fall of 2007. Ms. Flores discussed the purchase of 100%  
21 natural honey with Mr. Ahuja and he provided her with marketing materials, copies of  
22 Beez India's FDA registration and references from other U.S. importers who had  
23 purchased from Beez India. Beez India's marketing materials and correspondence with  
24 Ms. Flores all stated that Beez India exported "100% pure natural honey" and included  
25 detailed information on their testing procedures that included glossy photographs of  
26 facilities purportedly utilized for quality control testing.

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3 After negotiating for several months with Mr. Ahuja and others at Beez India, in  
4 late 2007, Ms. Flores placed an order for 500 cases of 100% natural honey. Acme's  
5 purchase orders specified "100% Grade A honey." Invoices from Beez India listed the  
6 product as "natural honey." And the packaging listed the product as "100% pure Grade A  
7 Honey." The honey arrived at the Port of Seattle in March 2008, and Acme Foods began  
8 selling the honey to their customers including Food Services of America, who provided it  
9 to their customers that included bakeries, casinos, a medical center, a Boy Scout ranch,  
10 restaurants, and other businesses. By June 2008, Food Services of America began  
11 receiving complaints from customers regarding the taste of the Beez India honey.

12 Food Services of America had the honey tested by a private laboratory in  
13 Germany who reported the honey contained 75-80% corn syrup. Upon learning of these  
14 results, Acme Foods also had the honey tested at a private laboratory in the U.S. that  
15 confirmed the German test results. Later testing by the FDA also confirmed these results.

16 Acme Foods subsequently contacted Beez India. In response, Beez India (via e-  
17 mails from Mr. Ahuja and an employee) stated that they had mistakenly delivered "Grade  
18 B" honey with a higher sugar content and offered to supply new labels, but claimed  
19 nonetheless that the honey was not adulterated. They recommended Acme "ignore this  
20 customer this time." Over the next several weeks, Beez India sent a series of e-mails  
21 claiming that Acme was using a different testing method, that Grade B honey is not tested  
22 for sugar (despite the fact that Acme had ordered Grade A honey) and a variety of other  
23 explanations as to why corn syrup was in the honey. Beez India ultimately claimed the  
24 honey farmers had mistakenly placed Grade B honey in the shipment and that Grade B  
25 honey was not tested for sugar. Therefore, they could not have detected this problem.  
26 Beez India then offered to provide labels indicating the product was "blended honey."

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3 Finally, Beez India conceded that the honey contained corn syrup (but still claimed this  
4 was not their fault) and offered to supply nutrition labels for “corn syrup, honey.”

5 FDA import records revealed that over the course of the last five years, Beez India  
6 had completed 36 shipments of honey into the United States. FDA and ICE began  
7 contacting other companies that had imported honey from Beez India. They found that as  
8 early as 2006, SUNNY AHUJA had offered blended corn syrup honey to a customer in  
9 New York and shipped the product in containers labeled as 100% Grade A Honey. They  
10 also found that shipments to companies in Virginia and New York in 2007, both labeled  
11 100% Grade A Honey, in fact contained 50-90% corn syrup. Finally, they learned that  
12 another company in Texas reported similar problems with adulterated honey to Beez  
13 India and Mr. Ahuja in May 2008, shortly before the Acme foods shipment.

14 In 2011, FDA and ICE learned of new shipments from Beez India to a Minnesota  
15 based company in March and April 2010. Those shipments were both labeled 100%  
16 Grade A Honey but in fact contained 9-22% corn syrup. Agents also found records of  
17 numerous sample shipments to U.S. food importers in 2010 and 2011. Typically,  
18 companies that receive samples have had those samples tested and found 100% honey.  
19 However, several companies, including importers in Texas and New York, later received  
20 shipments that contained up to 90% corn syrup.

### 21 **III. SENTENCING GUIDELINES CALCULATION AND** 22 **RECOMMENDATION**

#### 23 **A. The Presentence Report and the Offense Level Calculations**

24 United States Probation prepared a final presentence report on March 27, 2015,  
25 with the following offense level calculations pursuant to Section 2B1.1 of the United  
26 States Sentencing Guidelines:

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3	Base Offense Level	6
4	Loss Amount (\$200,000.00-\$400,000.00)	12
5	Organizer, Leader or Manager	2
6	Adjusted Offense Level	20
7	Acceptance of responsibility	-3
8	Total Offense Level	17

9 Mr. Ahuja does not have any criminal history. Therefore, he is in criminal history  
10 category I. Based on an offense level of 17 and a criminal history category of I, U.S.  
11 Probation calculated his guideline range at 24 to 30 months.

#### 12 **B. SENTENCING RECOMMENDATION**

13 In light of the relevant sentencing factors listed in 18 U.S.C. § 3553(a), the  
14 government recommends a sentence of 60 days custody with no supervised release to  
15 follow. The government also recommends that the defendant be ordered to  
16 pay restitution as discussed in paragraph 6 of the Plea Agreement. The custodial sentence  
17 recommended by the government is less than one-eighth of the low-end of the Guidelines  
18 range. This sentence is sufficient, but not greater than necessary to comply with the  
19 relevant statutory sentencing factors.

20 As part of the plea agreement, the United States agreed to recommend no more  
21 than three months in custody for Mr. Ahuja. The government's agreement to recommend  
22 such a reduced sentence was based on several factors including the fact that defendant's  
23 adulteration was purely for financial gain and did not involve any health and safety  
24 concerns, the fact that defendant voluntarily appeared in court repeatedly following his  
25 release, the fact that defendant agreed to plead guilty in a very short time frame, the fact  
26 that defendant has already paid \$100,000.00 towards his \$109,928.60 restitution

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3 obligation, and defendant's willingness to meet with the government and discuss his  
4 crimes without the benefit of any immunity. In light of defendant's voluntary appearance  
5 in court for sentencing and the recommendations of U.S. Probation, the government is  
6 recommending one month less than the three month cap in the plea agreement. For the  
7 reasons stated below, however, the government believes a custodial sentence is necessary  
8 to address all the factors in Section 3553(a).

9 First, with regard to the nature and circumstances of the offense, the defendant is  
10 an experienced importer and this was not a one-off instance of fraud. Defendant  
11 repeatedly delivered adulterated honey to customers in the United States over the course  
12 of at least two years. He also engaged in a concerted effort to deceive his customers after  
13 they discovered the adulteration. As noted above, defendant carried on extensive  
14 correspondence with his customers in an attempt to cast blame on other parties in the  
15 supply chain.

16 Second, there is a great need to deter others from engaging in the same activities  
17 that have brought the defendant before this Court. Adulteration of food products for  
18 financial gain is a serious problem in the industry. The financial incentives to adulterate  
19 honey in particular are significant as importers can greatly increase their profits by  
20 diluting honey with other cheaper products such as corn syrup. The sentence in this case  
21 must send a message that violations of our import and food safety laws by will not be  
22 tolerated. The imposition of a Federal prison sentence, even a short sentence of two  
23 months as the government is recommending, sends that message. A sentence of one day  
24 time served, on the other hand, tends to send a symbolic message of tolerance that fails to  
25 meet the goals of deterrence set forth in Title 18, United States Code, Section 3553(a).

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3 Third, the sixty day sentence recommended by the government reflects the  
4 seriousness of the defendant's actions in relation to others involved in similar criminal  
5 conduct. In 2010, defendant Boa Zhong Zhang received a sentence of approximately  
6 sixteen (16) and a half months for his involvement in a transshipment scheme to import  
7 falsely labeled Chinese honey to avoid anti-dumping duties. Zhang's co-defendant,  
8 Chung Po Liu, the U.S. based importer of the falsely labeled honey, was sentenced to 12  
9 months and one day. Although Zhang and Liu's transshipment scheme resulted in a \$3  
10 million tax loss, the value of the honey imported into the United States was similar to that  
11 involved in this case.<sup>1</sup> Additionally, Mr. Liu, was nearly 70 years old at the time of  
12 sentencing and suffered from a myriad of health issues. A sentence of less than that  
13 requested by the government here would represent an unreasonable disparity between  
14 these two similar prosecutions.

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26 <sup>1</sup> Chinese honey is subject to extremely high anti-dumping duties that account for the higher tax loss amount used  
for the Guideline calculations in the Liu prosecution.

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3 **IV. CONCLUSION**

4 For the reasons stated above, the government believes a sentence of 60 days  
5 custody for Mr. Ahuja and a \$250,000.00 fine for Beez India is necessary to reflect the  
6 nature and seriousness of the crime promote, respect for the law and afford adequate  
7 deterrence. The government also recommends a restitution order in the amount of  
8 \$109,928.60.

9 DATED this 9<sup>th</sup> day of April, 2015.

10  
11 ANNETTE L. HAYES  
12 ACTING UNITED STATES ATTORNEY

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 9<sup>th</sup>, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorney of record for Defendant.

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