



## Miami Seafood Brokers Charged For Importing Undersized Lobsters

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The U.S. Attorney's Office in Miami criminally charged two persons with violating the Lacey Act by importing undersized lobsters from Brazil and the Bahamas. The two persons were Directors and Corporate Officers of Bobbery Enterprises, Inc., a Hialeah-based seafood brokerage firm. According to the U.S. Attorney's Office, based upon an investigation by the NOAA Fisheries Office of Law Enforcement and Florida Wildlife Conversation Commission, from 2003 to 2005, the two persons knowingly imported undersized lobsters from both Brazil and the Bahamas.

Both Brazil and the Bahamas have specific laws that specify the minimum sizes of lobsters that may be harvested from their territories. For Brazil, the tail length must be at least 13.0 cm or 5.1 inches. For the Bahamas, the law is that the tail measurement, if the tail is severed from the head, must be at least 5½ inches. Both countries are attempting to prevent the extinction of the lobsters, and the lobsters must reach a certain size before they may reproduce.

If convicted under the Lacey Act, the two persons face imprisonment of up to 5 years for each violation as well as criminal fines of up to \$250,000 for each violation. The Lacey Act (16 U.S.C. 3372 and 3373) specifies that the United States will enforce the wildlife conservation laws of other countries. A "prohibited act" by the Lacey Act states that "it is unlawful for any person to import,

transport, or sell any fish or wildlife or plant in violation of foreign law."

Even if the U.S. Attorney's Office decided not to pursue criminal charges, there are separate civil violations under the Lacey Act against the two persons and Bobbery that could be pursued, also with huge civil penalties. On May 22, 2008, the Lacey Act was amended to make it illegal to import broader range of plants and plant products. The Act now requires an import declaration for plants that includes the scientific name of any plant, a description of the value, quantity, and the name of the country from where the plant was taken. Federal agencies involved in enforcing the provisions in the Act are working together to phase in enforcement of the declaration beginning April 2009.

The bottom line is that before importing or purchasing any fish or wildlife or even plant product from overseas, be sure doing so complies with the law of the country from which the product is being purchased.

Becker & Poliakoff, P.A. has offices in the United States, and is also a member of Consulegis, a worldwide network of member law firms. We can assist U.S. companies interested in understanding the laws of other countries so that the unfortunate situation such as the importation of undersized lobsters from Brazil and the Bahamas does not occur with our clients. ■

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