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SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 GERARDO CHAVEZ (1),)
 JOEL ERASMO VARELA GONZALEZ (2),)
 CARLOS MEDINA (3))
 ENRIQUE PEREZ SOLTERO (4),)
 SUNIL JIWAT MIRWANI (5),)
 RENE AXEL TRAHIN (6),)
 ELIZABETH SANDOVAL (7),)
 JUAN PORTER (8),)
 INTERNATIONAL TRADE)
 CONSULTANTS, LLC (9),)
 TECATE LOGISTICS, LLC (10),)
 M TRADE, INC. (11),)
)
 Defendants.)

No. 12MJ2756
COMPLAINT
Title 18, U.S.C., Sec. 371 – Conspiracy to
Defraud the United States and Commit
Offenses against the United States;
Title 18, U.S.C., Sec. 542 – Entry of Goods
by Means of False Statements;
Title 18, U.S.C. Sec. 1519 – Obstruction of
Justice

[FILED UNDER SEAL]

The undersigned complainant, being duly sworn, states:

Count 1

Beginning on a date unknown and continuing up to and including July 25, 2012, within the Southern District of California and elsewhere, defendants GERARDO CHAVEZ, JOEL ERASMO VARELA GONZALEZ, CARLOS MEDINA, ENRIQUE PEREZ SOLTERO, SUNIL JIWAT MIRWANI, RENE AXEL TRAHIN, ELIZABETH SANDOVAL, JUAN PORTER, INTERNATIONAL TRADE CONSULTANTS, LLC, TECATE LOGISTICS, LLC and M TRADE, INC. did knowingly and intentionally conspire with each other and with other persons known and unknown, to defraud the United States through deceit, craft, trickery and by means that are dishonest, and to commit offenses against the United States; that is:

- (a) Entry of Goods by Means of False Statements, in violation of Title 18, United States Code, Section 542; and
- (b) Obstruction of Justice, in violation of Title 18, United States Code, Section 1519.

all in violation of Title 18, United States Code, Section 371.

Count 2

On or about December 9, 2011, within the Southern District of California and elsewhere, defendants GERARDO CHAVEZ, JOEL ERASMO VARELA GONZALEZ, CARLOS MEDINA, SUNIL JIWAT MIRWANI, INTERNATIONAL TRADE CONSULTANTS, LLC, TECATE LOGISTICS, LLC and M TRADE, INC. did knowingly cause to be entered and introduced into the commerce of the United States, Chinese-made textiles, by means of a false statement and false and fraudulent practice and appliance, to wit: by falsely stating and maintaining that the shipment of apparel was to be transshipped in-bond to Mexico and that no duties were owed, in violation of Title 18, United States Code, Section 542.

Count 3

On or about February 21, 2012, within the Southern District of California and elsewhere, GERARDO CHAVEZ, JOEL ERASMO VARELA GONZALEZ, CARLOS MEDINA, INTERNATIONAL TRADE CONSULTANTS, LLC and TECATE LOGISTICS, LLC did knowingly cause to be entered and introduced into the commerce of the United States, a shipment of foreign-made cigarettes, by means of a false statement and false and fraudulent practice and appliance, to wit: by falsely stating and maintaining that the New York, New York-brand cigarettes would be returned to their manufacturer within the United States and that no duties were owed, in violation of Title 18, United States Code, Section 542.

Count 4

On or about April 30, 2012, within the Southern District of California and elsewhere, GERARDO CHAVEZ, JOEL ERASMO VARELA GONZALEZ, CARLOS MEDINA, SUNIL JIWAT MIRWANI, INTERNATIONAL TRADE CONSULTANTS, LLC, TECATE LOGISTICS, LLC and M TRADE, INC. did knowingly cause to be entered and introduced into the commerce of

the United States, a shipment of Chinese-made textiles, by means of falsely asserting and maintaining that the textiles would be transshipped in bond to Mexico and that no duties were owed, in violation of Title 18, United States Code, Section 542.

Counts 5-24

On or about the dates set forth below, within the Southern District of California and elsewhere, GERARDO CHAVEZ, JOEL ERASMO VARELA GONZALEZ, CARLOS MEDINA, SUNIL JIWAT MIRWANI, INTERNATIONAL TRADE CONSULTANTS, LLC, TECATE LOGISTICS, LLC and M TRADE, INC. did knowingly alter, conceal, cover up, falsify and make false entries in Transportation and Entry manifests with the intent to impede, obstruct and influence the investigation and proper administration of a matter within a Department and agency of the United States, that is within the Department of Homeland Security, United States Customs and Border Protection, by forging perforation marks and falsely asserting that shipments of goods had been exported to Mexico, when in fact the shipments remained in the United States, as set forth below:

Count	Date	In-Bond Number	Goods
5	6/20/11	331789360	Chinese-made textiles
6	6/22/11	331789496	Chinese-made textiles
7	6/22/11	331789485	Chinese-made textiles
8	6/22/11	331789544	Chinese-made textiles
9	7/14/11	331789640	Chinese-made textiles
10	7/15/11	331789570	Chinese-made textiles
11	1/4/12	331790152	Chinese-made textiles
12	1/30/12	331790185	Chinese-made textiles
13	2/23/12	331790115	Chinese-made textiles
14	3/13/12	331790244	Chinese-made textiles
15	3/21/12	331790653	Chinese-made textiles
16	3/30/12	331790303	Chinese-made textiles
17	3/30/12	331790351	Chinese-made textiles
18	4/9/12	331790336	Chinese-made textiles
19	4/9/12	331790535	Chinese-made textiles
20	5/23/12	331790454	Chinese-made textiles

21	5/23/12	331790491	Chinese-made textiles
22	5/23/12	331790546	Chinese-made textiles
23	5/23/12	331790572	Chinese-made textiles
24	6/25/12	331791025	Chinese-made textiles

all in violation of Title 18, United States Code, Section 1519.

Counts 25-53

On or about the dates set forth below, within the Southern District of California and elsewhere, GERARDO CHAVEZ, JOEL ERASMO VARELA GONZALEZ, CARLOS MEDINA, RENE AXEL TRAHIN, INTERNATIONAL TRADE CONSULTANTS, LLC and TECATE LOGISTICS, LLC did knowingly alter, conceal, cover up, falsify and make false entries in Transportation and Entry manifests with the intent to impede, obstruct and influence the investigation and proper administration of a matter within a Department and agency of the United States, that is within the Department of Homeland Security, United States Customs and Border Protection, by forging perforation marks and falsely asserting that shipments of goods had been exported to Mexico, when in fact the shipments remained in the United States, as set forth below:

Count	Date	In-Bond Number	Goods
25	3/26/12	333622494	Cigarettes
26	3/26/12	333622936	Cigarettes
27	3/26/12	333623102	Cigarettes
28	3/26/12	333623091	Cigarettes
29	3/26/12	333623706	Cigarettes
30	3/26/12	333624056	Cigarettes
31	3/26/12	333624830	Cigarettes
32	3/26/12	333626171	Cigarettes
33	3/26/12	333626716	Cigarettes
34	3/26/12	333627092	Cigarettes
35	3/26/12	333626720	Cigarettes
36	3/26/12	333629085	Cigarettes
37	3/26/12	333630135	Cigarettes

38	3/26/12	333630146	Cigarettes
39	3/26/12	333630150	Cigarettes
40	3/26/12	333630404	Cigarettes
41	3/26/12	333630415	Cigarettes
42	3/26/12	333631071	Cigarettes
43	3/26/12	333631874	Cigarettes
44	5/1/12	333631885	Cigarettes
45	5/1/12	333632611	Cigarettes
46	5/1/12	333633086	Cigarettes
47	6/6/12	333624933	Cigarettes
48	6/6/12	333631900	Cigarettes
49	6/6/12	333636240	Cigarettes
50	6/6/12	333637091	Cigarettes
51	6/8/12	333640381	Cigarettes
52	6/11/12	333638686	Cigarettes
53	6/28/12	333642190	Cigarettes

all in violation of Title 18, United States Code, Section 1519.

Counts 54-56

On or about the dates set forth below, within the Southern District of California and elsewhere, GERARDO CHAVEZ, JOEL ERASMO VARELA GONZALEZ, CARLOS MEDINA, ELIZABETH SANDOVAL, INTERNATIONAL TRADE CONSULTANTS, LLC and TECATE LOGISTICS, LLC did knowingly alter, conceal, cover up, falsify and make false entries in Transportation and Entry manifests with the intent to impede, obstruct and influence the investigation and proper administration of a matter within a Department and agency of the United States, that is within the Department of Homeland Security, United States Customs and Border Protection, and within the Department of Health and Human Services, United States Food and Drug Administration, by forging perforation marks and falsely asserting that shipments of goods had been exported to Mexico, when in fact the shipments remained in the United States, as set forth below:

Count	Date	In-bond number	Goods
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54	4/27/12	331790874	Mexican food products
55	5/15/12	331791003	Mexican food products
56	6/22/12	331791191	Mexican food products

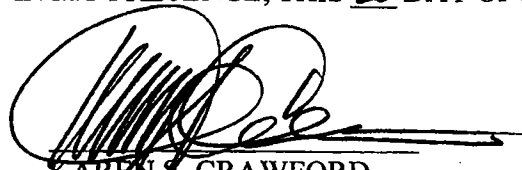
all in violation of Title 18, United States Code, Section 1519.

And the complainant further states that the foregoing is based on the attached statement of the facts, which is incorporated herein by reference.



JOSEPH E. MAHE
Special Agent, HSI

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 23rd DAY OF JULY, 2012.



KAREN S. CRAWFORD
UNITED STATES MAGISTRATE JUDGE

STATEMENT OF PROBABLE CAUSE

A. Summary of the Scheme

Gerardo Chavez (“CHAVEZ”) is a licensed Customs broker and the President of the San Diego Customs Brokers Association. As a licensed Customs broker, CHAVEZ is legally permitted to engage in “customs business.” In substance, a Customs broker’s responsibilities include apprising oneself of a client’s goods, assessing their Customs classification, assessing their value and ensuring that the appropriate Customs taxes or “duties” are paid. CHAVEZ owns two companies: International Trade Consultants, LLC (“ITC”) and Tecate Logistics, LLC (“TECATE LOGISTICS”). At all times in the course of the scheme, CHAVEZ acted on behalf of these companies and for their benefit. Over the past five years, CHAVEZ and his companies have facilitated approximately one-half billion dollars in trade between merchants in the United States and other countries.

Starting on an unknown date and continuing up until the present, CHAVEZ and the other defendants conspired to import foreign-made goods without paying Customs duties. According to the scheme, Sunil Jiwat Mirwani (“MIRWANI”) and others would purchase foreign-made goods and arrange for them to be shipped to the United States. When the goods arrived in the United States, the associated Customs paperwork and database entries would show that the goods were not intended to remain in the United States, but instead would be “transshipped” “in-bond” to another country or held in a bonded facility or foreign trade zone (“FTZ”) pending export to another country. Such in-bond transshipments are a routine feature of international trade. When goods are transshipped in-bond through the United States from one country to another, those goods are deemed not to have entered the commerce of the United States and thus are not subject to Customs duties. The same is true of goods in a bonded facility or FTZ; for a limited period of time, they are not subject to Customs duties.

In CHAVEZ’s scheme, instead of completing the transshipment to another country, CHAVEZ, his employee Joel Erasmo Varela Gonzalez (“VARELA”), their logistics coordinator Carlos Medina (“MEDINA”) and other coconspirators would arrange for a truck driver, or a series of truck drivers, to transport the goods to Los Angeles or another location within the United States. In this way, the defendants evaded applicable Customs duties, effectively importing foreign-made goods duty-free. The defendants thus could sell more goods at cheaper prices and for greater profit than their law-abiding competitors, including domestic American manufacturers of these same products. For example, many shipments were diverted to warehouses controlled by MIRWANI. At all times relevant to the scheme, MIRWANI acted on behalf of M Trade Inc. (“M TRADE”) and for its benefit. This type of scheme is sometimes called a “diversion scheme” because the shipments purportedly destined for another country are “diverted” back into the commerce of the United States. Through this scheme, the coconspirators imported foreign-made goods effectively tax-free. As a result, they could in turn sell more merchandise at cheaper prices—and reap greater profits—than their law-abiding competitors, including domestic American manufacturers of the same goods. To date, investigators have uncovered more than 90 commercial shipments of fraudulently imported Chinese-made apparel, foreign-made cigarettes and other goods. Altogether, these shipments are

worth at least \$100 million and resulted in more than \$10 million in lost Customs duties, taxes and other revenue.

To conceal the ongoing scheme, the coconspirators would generate forged and otherwise fraudulent Customs documentation. To explain this aspect of the defendants' criminal activity, it is necessary to describe briefly the manner in which United States Customs and Border Protection ("CBP") memorializes the exportation of commercial shipments from the ports in San Diego. When an in-bond shipment leaves the United States for Mexico, it passes through the Otay Mesa Cargo Port of Entry. There, the truck driver for a given shipment will provide CBP officers with a Transportation and Entry manifest ("T&E manifest" or "manifest"). The CBP officers will then perforate the manifest, and any copies given to them, using a special perforation machine. At all times relevant to this complaint, the perforation machine would generate a "single-dot C"; that is, a letter C with a single dot on top, and a single dot on the bottom. By perforating the manifest, the CBP officer effectively certifies that the goods in question were shipped out of the United States to Mexico. The CBP officers then retain a copy for CBP's files, while the trucker keeps the remainder.

Over the last two years, CBP officers noticed that they did not have a complete record of the T&E manifests for in-bond shipments facilitated by CHAVEZ. Resultantly, CBP officers would call the offices of GCCHB and ask for the copy that their trucker might have retained. In response, an employee of GCCHB would email to CBP officers an electronic copy of a forged T&E manifest, which exhibited perforation marks that were not of the correct size and shape. Specifically, the perforation mark would show a "double-dot C"; that is, a letter C that had two dots and the very top, and two dots at the very bottom, of each "C"—in contrast to the single-dot C generated by CBP's perforation machine.

Also as part of the scheme, VARELA would advise coconspirators how to evade inspection by the Food and Drug Administration ("FDA"). Thus, on one occasion, VARELA conspired to cover up an incident in which they imported produce that they knew was infected with *Salmonella Agona* ("*Salmonella*"), a life-threatening infectious bacteria.

As this complaint and statement of facts are submitted for a limited purpose, I do not include every fact known to me. Facts relevant to the above-recited charges are set forth below:

B. Fraudulent Shipments of Chinese-Made Apparel

1. The December 9, 2011 Fraudulent Shipment

On December 9, 2011, container EMCU8043238 arrived at the Port of Long Beach, California. The manifest for this container indicated that it originated in China and that it would not enter the United States, but instead be transshipped in-bond to Mexico. Specifically, the manifest identified the consignee as "Comercializadora Casa Grande Calle Parado, 2198 Las Villa[,] San Luis," Mexico. The manifest further showed that the shipment's broker was GCCHB and that the bonded carrier was TECATE LOGISTICS. The manifest listed the container's contents as "Ladies

Pants.” Consistent with the representation that the container would be transshipped in-bond to Mexico, no party paid Customs duties on the goods.

On December 19, 2011, MEDINA instructed a trucker to pick up container EMCU8043238 from Pacer International warehouse in San Diego County, California, and drive it to San Diego County, California. On December 20, 2011 at about 10:00 a.m., the trucker arrived in San Diego, California, and picked up container EMCU8043238. On December 21, 2011, a trucker drove that same container northward to MIRWANI’s warehouse. MIRWANI was present at the warehouse; he and two unidentified assistants open container 5304 and placed its contents into MIRWANI’s warehouse. During the unloading process, MIRWANI placed the contents of two boxes into the trunk of a black two-door Mercedes Benz.

On March 13, 2012, a coconspirator emailed to CBP officers a fraudulent T&E manifest, purporting to document container EMCU8043238's export to Mexico. Consistent with the ongoing scheme, CBP did not have its own perforated copy of this manifest. Also consistent with the scheme, the T&E manifest bore a forged double-dot C perforation mark, and listed a consignee in Mexico that does not exist.

2. The February 23, 2012 Fraudulent Shipment of Chinese-Made Apparel

On February 21, 2012, at approximately 12:45 p.m., MEDINA called VARELA and said, in Spanish, “Listen, I am about to get across, and I am going to call you once I am on the other side. . . . And another thing. Yesterday’s container, [did it arrive] finally yesterday?” MEDINA replied, “Yesterday? No, dude, that is going to arrive the 22nd.” VARELA then said, “Uh. It will arrive the 22nd. I was thinking that was going to arrive the 20th, dude. Since, I didn’t get any email so, I said, ‘Let me see if’ So, I will call you back once I am over here, okay? Once I arrive there, I am going to leave that inside your office.” MEDINA then acknowledged: “All right. You said.”

On February 23, 2012, container MSCU8017644 arrived at the Port of Long Beach, California. When originally filed, the T&E manifest for this container indicated that it originated in China and that it would not enter the commerce of the United States, but instead would be transshipped in-bond to Mexico. Specifically, the manifest identified the consignee as Comercializadora Casa Grande, Calle Prado 2198, Las Villas San Luis Rio Colorado, in Mexico, and listed the shipment’s contents as “Ladies Junior shorts and capris.” According to electronic Customs records, GCCHB, as broker, initiated this in-bond shipment and TECATE LOGISTICS was listed as the bonded carrier. Consistent with the representation that the container would be transshipped in-bond to Mexico, no party paid Customs duties on these goods.

Between February 23 and 25, 2012, a trucker hauled container MSCU8017644 from the Port of Long Beach to San Diego County. On February 25, 2012, at approximately 5:22 a.m., a trucker picked up container MSCU8017644 at in San Diego and drove it to the Los Angeles area. Later that day, in the Los Angeles area, agents witnessed its contents being offloaded at two separate

warehouses.

Approximately two weeks later, on March 6, 2012, special agents learned that CHAVEZ was at the Otay Mesa Cargo Port of Entry, presumably on some type of Customs business. A CBP officer asked CHAVEZ, in substance, to provide a perforated copy of the T&E manifest associated with container MSCU8017644. CHAVEZ replied, “No it should have gone south [to Mexico], that was the thing. But [an employee of GCCHB] can probably give you . . . but I can ask her to send you one.” The CBP officer replied, “Yeah just need a proof of export that’s all.” The two confirmed the shipment in question, and CHAVEZ then said, “I will have her send it right over right now.”

As CHAVEZ promised, later that day, an employee of GCCHB emailed to the CBP officer a copy of the manifest for container MSCU8017644, purporting to document the shipment’s export to Mexico. The manifest bore a forged double-dot C perforation mark.

3. The Coconspirators Temporarily Drop their Diversion Scheme in Favor of Merely Undervaluing the Imported Chinese-made Goods

By April 2012, the coconspirators began to suspect that they were under investigation. Accordingly, the coconspirators decided to temporarily drop their diversion scheme in favor of merely undervaluing the Chinese-made apparel to minimize the import duties they owed.

On April 12, 2012, ocean container GESU5540135 entered the United States at the Port of Long Beach, California, and contained “Ladies shorts, Capris and Pants.” According to Customs databases, the shipment was supposed to be transshipped in-bond to another country, although the particular destination was never listed. The broker of record was GCCHB and the bonded carrier was TECATE LOGISTICS. That same day, at approximately 8:15 p.m., VARELA called a trucker and said, in Spanish, “. . . Listen buddy, I have a container and it’s already here but I need to take it to Los Angeles; you know why, you know who. But no one wants to do it because of the whole law issue. And since you told me you might be able to do it . . .” The trucker replied, “From Otay to up there?” VARELA responded, “That’s right, the container is going to Los Angeles.” The trucker agreed, “Sure dude, I’ll take it.”

After hiring the trucker to haul container GESU5540135, at approximately 8:17 p.m., VARELA called MEDINA, and, referring to his recent conversation with the trucker, said, “He said ‘Yes,’ that he’ll do it.” VARELA spoke admiringly of the trucker’s willingness to haul this container despite the risks: “Either way, [he] is a daredevil . . .” Later in the conversation, VARELA implied that despite the risks, they should continue the diversion scheme as before: “That shit is ready, man, it’s ready anyway . . . If by any chance Customs wants to inspect and it was here, no problem, better for us so they can see there [are] no issues with it. But if not, we can get rid of it and you know that shit will be long gone; that’s it, [we can say] ‘They picked it up yesterday and it’s gone,’ no problem.”

The next day, on April 13, 2012, at approximately 8:33 a.m., VARELA called CHAVEZ. The two began the conversation by discussing that they may need to pay Customs duties on the latest shipment of apparel to avoid detection by law enforcement. VARELA noted that a CBP officer had asked him for perforated manifests. CHAVEZ replied: "They must be looking for something, dude, because [a specific CBP officer] just requested me for old T&E's, dude . . . the old ones including the punch holes and all the information . . . They might be running a fucking investigation about that in there." CHAVEZ then proposed a solution; that they would make a "formal entry"—that is, import goods, properly document the importation, and pay Customs duties: "Why not this one, this one . . . we are going to have to do an entry, dude, and are going to pay taxes, dude . . . enter it then wait till it is inspected and we'll do all that stuff . . ." CHAVEZ then explained it would be important to pay Customs duties for this shipment, because he was focusing on the "future ones that are coming because if Customs get their way, dude, they will take all that shit down, dude." Yet, CHAVEZ saw fit to maintain at least one fraudulent angle for this shipment, suggesting that they understate the value of the goods to trigger a commensurately lower Customs tax bill: "It is better that we do that, do an entry now and then do a low value on it and that is it."

On April 13, 2012, GCCHB initiated formal entry of container GESU5540135 into the United States. In other words, GCCHB told CBP that they no longer expected to transship the container to Mexico, but instead would import the goods into the commerce of the United States. GCCHB thus changed the shipment's consignee from Comercializadora Casa Grande in Mexico to Metro Pacific Distributors, LLC. According to the California Secretary of State's business entities database, PEREZ is the principal of Metro Pacific Distributors, LLC, and its address is listed as the same as a warehouse used by MEDINA. On April 17, 2012, a trucker hauled container GESU5540135 to an alley behind 1014 South Wall Street in Los Angeles, California. Approximately eight people unloaded boxes from the containers into the rear storage area of that address.

Later that month, the coconspirators facilitated another formal entry of Chinese-made apparel, which I will not detail here.

4. After Making Two Formal Entries, the Coconspirators Resume the Diversion Scheme with a Diverted Shipment of Chinese-Made Apparel

On April 30, 2012, according to Customs databases, container HJCU1059156 entered the United States at the Port of Long Beach, California. According to this same information, container HJCU1059156 immured a shipment of "Ladies shorts, capris and pants" from Yantian, China. GCCHB initiated the in-bond process as broker.

On May 3, 2012 at approximately 6:22 p.m., VARELA called MEDINA and asked about the progress of a shipment of Chinese-made apparel. MEDINA said, in Spanish, that he "was not able to take it out . . . Tomorrow, I will be able to get it tomorrow." VARELA replied: "So you're going to get it tomorrow, and when are you going to send it, because I need for you to let me know, because I need for that shit to leave the same day." Later in the conversation, VARELA explained

his urgency, asking, rhetorically, “[W]hat if they take it out today and that container is still here? That guys gets busted and that shit is still here, the truck is still here, dude, with the container.”

On May 7, 2012, at approximately 8:36 a.m., MEDINA called the trucker responsible for this shipment and asked him, “Now what happened. Did you already grab the container?” The trucker replied, “Yes, I am going by El Toro.” MEDINA then confirmed directions to the destination, which was in an alleyway near Wall Street in Los Angeles, California. About an hour later, at 9:52 a.m., MEDINA told the trucker the name of the store, which is located in Los Angeles, California.

5. Summary of Diverted Shipments

Agents have reviewed records of shipments of Chinese-made apparel brokered by GCCHB. Below is a list shipments of Chinese-made goods for which T&E manifests bear a forged double-dot C perforation mark. These manifests were submitted by members of the conspiracy, and CBP lacked any independent record of them. Furthermore, each of these T&E manifests falsely state that a container of Chinese-made apparel was exported to Mexico:

Date Submitted to CBP	In-Bond Number	Goods
6/20/11	331789360	Chinese-made textiles
6/22/11	331789496	Chinese-made textiles
6/22/11	331789485	Chinese-made textiles
6/22/11	331789544	Chinese-made textiles
7/14/11	331789640	Chinese-made textiles
7/15/11	331789570	Chinese-made textiles
1/4/12	331790152	Chinese-made textiles
1/30/12	331790185	Chinese-made textiles
2/23/12	331790115	Chinese-made textiles
3/13/12	331790244	Chinese-made textiles
3/21/12	331790653	Chinese-made textiles
3/30/12	331790303	Chinese-made textiles
3/30/12	331790351	Chinese-made textiles
4/9/12	331790336	Chinese-made textiles
4/9/12	331790535	Chinese-made textiles

5/23/12	331790454	Chinese-made textiles
5/23/12	331790491	Chinese-made textiles
5/23/12	331790546	Chinese-made textiles
5/23/12	331790572	Chinese-made textiles
6/25/12	331791025	Chinese-made textiles

C. Fraudulent Shipments of Cigarettes

1. The “Return” of New York, New York Cigarettes

On February 27, 2012, a broker working in conjunction with GCCHB filed an “Entry Summary,” as well as an invoice and “inward cargo manifest” for approximately \$70,000 in “New York, New York” brand cigarettes. According to the paperwork, the cigarettes had been manufactured in the United States and exported to a company called Comercial Targa, S.A. de C.V. in Guaycura, Baja California, Mexico. However, for unspecified reasons, the goods remained unsold in Mexico and were now being “returned” to their purported manufacturer, Marketing Group, USA, Inc. in San Diego, California. Because these cigarettes were “returned” goods, the paperwork maintained that no Customs duties were owed. That same day, VARELA called MEDINA and advised: “Hey, the 53 container, it is possible that the trip is going to be done tomorrow, dude. Tomorrow or today. If it’s done today it won’t be done till this afternoon, dude. But I don’t think so. I believe most likely it is going to be for tomorrow, dude”

Later that afternoon, a tractor hauling a shipment of New York, New York brand cigarettes entered the Otay Mesa Commercial Port of Entry. CBP officer took pictures of the container’s contents: approximately 6,000 cartons of cigarettes on 12 pallets. CBP officers cleared the container for entry into the United States and special agents followed it as it made its way into the United States.

That same day, on March 2, 2012, rather than drive to the purported manufacturer’s address, the trucker immediately delivered the cigarettes to a bonded warehouse on Airway Road in San Diego, California. By not bringing the cigarettes to their “manufacturer,” the coconspirators instantly proved their Customs paperwork to be false. At approximately 4:54 p.m., MEDINA called VARELA. VARELA advised that he would “remove that merchandise [the cigarettes]” and “transport that over to your place [MEDINA’s warehouse in Chula Vista, California].” In a reference to CHAVEZ, VARELA explained: “Since Gerardo told me that it was twenty pallets because of that he asked for a 53, since you just told me that it’s only 12 pallets Pick up the twelve pallets and deliver to your place and then the other guys are going to stop at your place to pick that up.” MEDINA replied, “Okay” VARELA then concluded, “Okay. Then it’s done. That is what we are going to be doing on Monday. Everything is already prearranged”

On March 6, 2012, MEDINA called VARELA, who said that he planned to bring the container of cigarettes to MEDINA's warehouse later that day. At approximately 6:00 p.m., the cigarettes were transported and unloaded at MEDINA's warehouse in Chula Vista, California.

On March 16, 2012, CBP officers requested from the shipment's broker information on the whereabouts of the cigarettes originally brought into the United States as "returned" goods. The broker provided CBP officers with a perforated copy of a T&E for the New York, New York brand cigarettes, saying that he got it from "Joel [VARELA], an employee of CHAVEZ." Even though surveillance shows that the cigarettes remained at various warehouses in the United States, including MEDINA's warehouse, the manifest purported that the cigarettes had been exported to Mexico. In addition, the manifest bore a forged double-dot C perforation mark. Furthermore, CBP had no independent record of this T&E manifest.

2. The Coconspirators Divert Containers of Cigarettes from an FTZ

At the same time that agents were monitoring the "returned" cigarettes, agents located two containers of cigarettes, pending in an FTZ in San Diego, California. On March 19, 2012, Juan Porter ("PORTER"), a manager at a local trucking company, called VARELA and, in an apparent reference to containers of cigarettes, said that he "just wanted to coordinate the other ones." On March 21, 2012, a special agent went to the FTZ and spoke to the manager, who provided paperwork for the containers of cigarettes. According to the paperwork, the containers of cigarettes were supposedly destined for Mexico, and were brokered by GCCHB and another broker that had been working in conjunction with GCCHB.

Later that day, on March 21, 2012, at approximately 10:18 a.m., VARELA prepped PORTER to pick up a shipment of cigarettes from the FTZ. In short, VARELA advised that after he procured a particular kind of document, PORTER could help him "disappear" the shipment: "Babe, the document has been sent to get made. So then during the day we'll work, we will send it to you, you already have the container loaded up, you load it, and then you disappear it." VARELA cautioned PORTER: "I'm counting on you guys to be very discrete, dude, it's too, too, too damn hot so you guys can be on the lookout. Check the container very well; check everything else very well, where it is going to arrive and everything." In my training and experience, the term "hot," in this context, means that VARELA perceived heightened law enforcement interest in the shipment.

VARELA justified this caution by referencing the possibility of an arrest: "You tell them to take a lot of precautions, dude, because not only will they take just one but will be taking down everyone. I am going to put you in charge of that, dude. Okay?" VARELA concluded the conversation by emphasizing the need to conduct countersurveillance: "Yes, please, once you leave there and to whatever warehouse you arrive; there you do security stay outside and make sure he [PORTER's trucker] is not being followed, everything, everything, check for cars, check for non-civilians and everything, verify all that, dude."

A few minutes later, at approximately 10:34 a.m., PORTER called back with a question for VARELA: "I have a question, okay, if something goes wrong we're just not going to unload, right?" VARELA advised that if "anything else comes up," PORTER's trucker should lie about his true destination and say that he is "driving around while he waits . . . for the pedimento" so he can move south to Mexico. A "pedimento" is a type of document, produced by Mexico's customs authority, that certifies a shipment's importation into Mexico. In my training and experience, VARELA's reference to the "pedimento" is, in this context, shorthand for any Customs documentation needed to export the goods from the United States to Mexico. VARELA cautioned PORTER:

If you notice a tail on you guys or anything else, don't unload anything. Leave everything in the container but it's imperative the driver always has the in-bond forms with him. If anything else comes up, he can just say the pedimento is not ready, that he hasn't gone out, that he's been driving around while he waits for the document to get authorized because he doesn't have a destination. But if he arrives at a warehouse, he can say because he's waiting for the pedimento, that's all. All of those are valid excuses and he can have the merchandise with him, no problem. If anything else [a]rises, give me a call

I have read the English transcription of this conversation and I have considered its meaning in the context of the entire investigation. I believe that VARELA was instructing PORTER, in the event the shipment was stopped by law enforcement, to create the false impression that the goods were en route to Mexico when in fact the shipment was being diverted into the commerce of the United States.

The next day, on March 22, 2012, at approximately 10:40 a.m., special agents were conducting surveillance of the FTZ when a red truck hauling a white container arrived. As the truck entered the FTZ's parking lot, its cargo doors were open, and agents could see that it was empty. About 30 minutes later, at approximately 11:11 a.m., VARELA called an employee of the FTZ, whom, according to wiretap recordings, VARELA uses for inside information about CBP inspections. The employee told VARELA that "they are loading the containers already." Later that morning, the truck left the FTZ with its container doors closed. Agents and a surveillance helicopter followed the truck as it drove a short distance to a warehouse—which is not a bonded facility or FTZ—near Michael Faraday Drive and Siempre Viva Road in San Diego, California. The truck backed into an unmarked loading bay. When the truck and container left the warehouse a short time later, agents saw that its container doors were once again open and there was nothing inside.

On May 1, 2012, an employee of GCCHB emailed an electronic copy of this shipment's T&E manifest to CBP officers. The manifest purported that the shipment of cigarettes was exported to Mexico. In addition, the manifest bore a forged double-dot C perforation mark.

3. TRAHIN and VARELA Discuss the Diversion of Cigarettes

On April 12, 2012, at approximately 8:05 a.m., Rene Axel Trahin (“TRAHIN”) called VARELA to discuss the diversion of a shipment of cigarettes. TRAHIN began by complaining that the employee of a broker had not given him a document that he desired: “Hey, he/she did not send it man. I just called, but he/she is not answering.” VARELA responded with a profanity and the promise that they would soon succeed in diverting a shipment of cigarettes, or make it “disappear”: “Well, they are going to make it disappear . . . tomorrow, man. Hopefully, this girl can send this shit over to you. Otherwise, it’s going to leave with the ‘T&E’”

Later that day, TRAHIN again called VARELA and said, “Hey dude, [the employee] called me a while ago and she wants a list of that shit, dude! I think that with the tobacco, the situation is getting worse, dude.” VARELA asked “Okay, so what happened now?” TRAHIN replied, “No, its that she kept asking me and asked me, ‘You know what, if you can send me all the [Customs documents showing importation into Mexico] that you have crossed so I can have them at hand.’ . . .” VARELA said, “No, it can’t be done, it can’t be done, too much money.” Alluding to the expense of procuring fraudulent documentation from a contact of his in Mexico, VARELA said, “It’s too much money for the tobacco . . . How did it come about?” TRAHIN replied, “[a specific CBP officer] is asking her for them.” VARELA concluded: “Okay then, we will have to terminate with them [the broker in question] then.” TRAHIN agreed, “Yeah, that’s it, done.”

I have read the English transcription of this conversation and I have considered its meaning in the context of my entire investigation. I believe that a CBP officer had asked the broker for Customs documentation, including a T&E manifest. The broker, in turn, contacted TRAHIN and asked for those documents. However, because TRAHIN and VARELA had diverted the shipments into the commerce of the United States, they needed to procure fraudulent documentation to give to the broker. Finding this situation to be overly risky, TRAHIN and VARELA agreed to distance themselves from this particular broker or “terminate with them.”

VARELA then asked TRAHIN about when the conversation with the broker had taken place and also asked, “But that has nothing to do with the pants, the other pants?” TRAHIN replied, “No, no, no.” VARELA asked, “Okay then. And how many have been done there with them?” TRAHIN said, “We have done too many. Dude . . . since November, dude.” VARELA then instructed TRAHIN to gather information, but to proceed carefully, “Tell her to tell you how many, dude. Maybe it’s been done but we are going to have to investigate ourselves.” TRAHIN said, ‘Oh yeah, oh my! Hope this doesn’t bust open.”

VARELA then came up with a plan on how to stall the employee of the broker, who had been asking for Customs documentation to pass along to CBP officers. In short, TRAHIN should tell the broker that the documentation was coming from far away, so it will take time to get them for her:

Okay then, no, dude. Look, do the following, dude. I am going to tell you this, you check all the emails . . . and you tell me how much [how many shipments] there are,

there's not a lot, dude. It's going to be around ten, fifteen [shipments], and I will call later to see what price they give me and if they give us a good price then, we will let them go but they are going to take a while because the [documents] are going to take a while because they are in Guadalajara, and that's it, tell her it is going to take some days . . . There's not a problem.

VARELA continued:

I had already told you, dude, if our time came, we were going to have to tolerate it, we already knew it might happen. And if we come out of this situation okay, we have the door open [to work with another broker in the future].

The next day, on April 13, 2012, at approximately 10:55 a.m., TRAHIN called VARELA. After some banter, VARELA reassured TRAHIN about the situation. TRAHIN, apparently comforted, said, "Perfect! Indeed, I'm saying because I was feeling like shit and man, fuck, I was nervous because my legs were already shaking." VARELA followed up by making a statement about the payment of taxes:

Yes, the issue here was there are taxes that need to get paid so it doesn't work out and they don't give me that extra cash to pay for the in-bonds. I always find a way, though, no problem, the other one should arrive either the twenty-second or twenty-third. But I will let you know, if something comes up

TRAHIN responded, "All right, man, no problem I am getting ready the manifests you are going to use to see if we can start working on it next week." VARELA continued to reassure TRAHIN, noting that there would be "no problem," but that they might have to pay at least some taxes:

We're set, give me call or I'll call you . . . either way, I had already crossed some about three or four weeks ago so it was necessary to at least send one to Customs to pay taxes. This way [a specific CBP officer] and them know it's the same merchandise, man; that sometimes they'll export it, sometimes they'll want to leave it here, so they'll pay taxes and all that.

I have read the English transcription of this conversation and I have considered its meaning in the context of the entire investigation. I believe that in advising TRAHIN that it could become "necessary to at least send one to Customs to pay taxes," VARELA was implicitly acknowledging his and TRAHIN's understanding that they were not paying taxes on other shipments of cigarettes, but instead diverting them fraudulently into the commerce of the United States.

4. CHAVEZ and VARELA Discuss What They Have Learned So Far From their Cigarette Diversion Scheme

On May 3, 2012, at approximately 12:34 p.m., CHAVEZ and VARELA began a conversation about, among other things, the risks involved in possessing foreign-made cigarettes in the United States. Referring to what he perceived as heightened law enforcement interest in commercial shipments of cigarettes, CHAVEZ said: “. . . I have understood something, I have understood something from all this bullshit” CHAVEZ explained:

[I]f you have merchandise that you can't prove is legal to stay for, if you have it here the right way, because I can have cigarettes and who gives a fuck if it's whatever kind of cigarette, right? As long as it's not brand name cigarettes, and if its okay in the U.S. and the taxes have been paid for, I can have them and take them away and use it to—but if I have cigarettes that I cannot prove it's legal to stay, then you better be careful. Because you just didn't bring in the cigarette, but now you can't prove it's legal [to] stay, that's two counts, so I don't want to have the cigarette free, ready to go, and for no one to want it in the end. Then what the fuck am I going to do? Do I make myself clear? So the deal gets worse, man, and that's what I'm afraid of.

I have read the English translation of this conversation and I have considered its meaning in the context of my entire investigation. I believe that CHAVEZ was admitting to VARELA that they faced legal liability for their cigarette importation scheme.

5. Summary of Diversion of Cigarettes

Agents have reviewed records of shipments of cigarettes whose associated T&E manifests include a forged double-dot C perforation mark. CBP lacked an independent record for each of these manifests, and each falsely stated that shipments of cigarettes had been exported to Mexico:

Date Submitted to CBP	In-Bond Number	Goods
3/26/12	333622494	Cigarettes
3/26/12	333622936	Cigarettes
3/26/12	333623102	Cigarettes
3/26/12	333623091	Cigarettes
3/26/12	333623706	Cigarettes
3/26/12	333624056	Cigarettes
3/26/12	333624830	Cigarettes
3/26/12	333626171	Cigarettes

3/26/12	333626716	Cigarettes
3/26/12	333627092	Cigarettes
3/26/12	333626720	Cigarettes
3/26/12	333629085	Cigarettes
3/26/12	333630135	Cigarettes
3/26/12	333630146	Cigarettes
3/26/12	333630150	Cigarettes
3/26/12	333630404	Cigarettes
3/26/12	333630415	Cigarettes
3/26/12	333631071	Cigarettes
3/26/12	333631874	Cigarettes
5/1/12	333631885	Cigarettes
5/1/12	333632611	Cigarettes
5/1/12	333633086	Cigarettes
6/6/12	333624933	Cigarettes
6/6/12	333631900	Cigarettes
6/6/12	333636240	Cigarettes
6/6/12	333637091	Cigarettes
6/8/12	333640381	Cigarettes
6/11/12	333638686	Cigarettes

According to our investigation, these cigarettes included German, Indian and other foreign-made brands.

D. The Importation of Salmonella-Infected Produce

On April 17, 2012, a shipment of approximately 5,500 kilograms of nopal cactus (also known as prickly pear) arrived at the Otay Mesa Port of Entry in San Diego, California. The shipment was brokered by GCCHB. According to Customs documentation submitted by GCCHB, the nopal cactus originated with “Comerc. De Frutas y Legumbres Verduzco” in Tecoman Colima, Mexico, and was later processed by El Chino Produce, Blvd. Insurgentes #16174-B in Tijuana, Mexico. Destined for

the United States market, when the nopal arrived at the Otay Mesa Commercial Port of Entry, the FDA tested a sample and found that it was infected with *Salmonella*.

On April 26, 2012, at approximately 11:59 a.m., an employee of GCCHB called VARELA and said, “FDA just called me and I’m going to send them an email right now but I wanted to let you know real quickly . . . we have one nopal pending and most likely it came out positive for *Salmonella*, so FDA is asking for [the person to whom the nopal cactus was shipped].” The employee continued, “[The FDA] wants to know if all products were sold or if they have it all the same.” VARELA replied, “Uh, okay. Sounds goods. I’m going to call [a coconspirator] directly right now so that he can take care of that and for her not to worry.”

The next day, on April 27, 2012, at 1:16 p.m., an FDA official emailed VARELA: “An FDA laboratory analysis has found *Salmonella*, a disease[-]causing bacteria, in the sample of your produce.” The official went on to alert him that “this is a significant health hazard” and encouraged VARELA to share the information with those responsible for the nopal cactus in Mexico. In the email, the FDA further made clear that future shipments of what the FDA deemed to be the same nopal cactus would be “detained.” Attached to the email, the FDA included an “FAQ” outlining the consequences of detention. These consequences included, in substance, that the nopal could enter the territory of the United States, but could not be sold without FDA approval.

Less than three hours after receiving the email, at approximately 3:47 p.m., VARELA called an unknown male to warn him that the nopal was to be detained: “[I]t looks like all the entries are being checked, yours, those are not released But you guys haven’t sold those yet, right? I mean, what, what are you guys planning to do?” VARELA continued:

The problem is dude, if the girl [the FDA official] is sending you guys emails [to the effect of] ‘Three entries are being released, three entries are pending’ [then] that is for you guys to do a follow up, with things that [are] being released and which are not. Just a suggestion . . . you need to tell [an employee of his not to tell an employee of GCCHB] that the merchandise was already with the client. That creates the misunderstanding that we are not doing what needs to be done as usual. . . . Because what could happen is that we can get stuck and even if we are doing the followup and it could be not the same and dude we could get in trouble.

In sum, VARELA discouraged the unknown male from telling anyone that the *Salmonella*-infected produce had already been delivered—“was already with the client.” The reason for this, VARELA euphemistically explained, was that if the FDA discovered that they had already delivered detained *Salmonella*-infected produce to customers in the United States, it could lead to a “misunderstanding” and they “could get in trouble.”

As of April 27, 2012, the Customs paperwork for the nopal shipments changed. Rather than reflect the grower of the nopal as “Comercializadora de Frutas y Legumbres Verduzco, SA de CV,” the paperwork showed a completely new grower, “Jose Luis Balderas.” By changing the name of

the manufacturer, the coconspirators hoped to fool the FDA into regarding the new shipments of nopal cactus as originating at a ranch that did not have issues with *Salmonella* contamination.

On May 2, 2012, at approximately 1:19 p.m., VARELA called an employee of GCCHB and said, in Spanish, “Hey, Oscar called me with something about . . . that they put the grower information wrong and now Customs detained them or something like that” The employee replied, “What? Nothing like that. No! I sent them an email that FDA sent me asking them to help me because, they know, they have found out that they have changed the manufacturer and they want to know if there is some kind of relationship, they want to know who was the one that was bagging, packaging and cutting the nopal.” VARELA replied, “Yes, that’s it, they changed it the same day that you told them about the *Salmonella* and that was very obvious, very obvious. And I did find out about that, too. Oh, okay, that’s fine. They can do whatever needs to be done”

A few minutes later, VARELA called a coconspirator and aired his suspicions: “Hey, I don’t know if you know, but FDA asked us for request about an entry, do you remember the same day that *Salmonella* was detected, well . . . that same day you changed the growers, the ranch [in Customs databases]?” The coconspirator admitted, “Yes, I did.” After the coconspirator admitted to changing the “ranch’s” identity on Customs paperwork, VARELA emphasized the FDA would be watching, and advised the coconspirator that he should try not to sell the nopal: “[W]e are going to have to be careful now with . . . entries referring that they cannot be delivering right away, selling, and things like that, dude, because it’s going to be, FDA is going to be looking over you guys” VARELA concluded: “[I]f they [the FDA] see that [one product] looks like the same as the [product from] the other ranch, then they are going to say, ‘that’s the same one, all you did was change the grower.’ So that all needs to be covered up but it needs to be done right”

E. The Fraudulent Importation of Mexican-Made Snack Food

On April 11, 2012, a trucker drove a shipment of \$43,140 in Mexican-made dry goods, including two types of “churromais”—a type of corn chip—to the United States through the Otay Mesa Cargo Port of Entry. According to Customs paperwork, “Elizabeth Sandoval [SANDOVAL]” was the importer and ultimate consignee. GCCHB was the broker of record and TECATE LOGISTICS was the bonded carrier. That day, the FDA refused entry for the churromais, citing several reasons, including an inadequate description of the ingredients and the presence of an unsafe color additive. While the remainder of the shipment proceeded into the United States, the churromais was detained at the port pending re-delivery to Mexico.

On April 23, 2012, VARELA called SANDOVAL. In an apparent reference to Customs documentation, he said, “Hey Liz, good morning. Listen, the form has arrived; we got the form.” After confirming her address in the United States, SANDOVAL asked, “Okay, so what’s going to be done, plan ‘B’?” VARELA replied, “Positive. [The trucker] is going to go pick up with you, go to Customs, do his work, returns back with you. I will confirm to you that it is ready so you can make it disappear.” SANDOVAL agreed, “Perfect. Perfect.” VARELA thus promised SANDOVAL that a trucker would bring the churromais to her in the United States.

The next day, on April 24, 2012 at approximately 11:09 a.m., VARELA called SANDOVAL and teased: "Eli . . . there's problems." SANDOVAL asked, "What's up" and VARELA confirmed that the "merchandise is on its way." SANDOVAL then confirmed that the goods had made it to her shop in the United States: "Right on. Well, I'm already unloading here." Not sure that he was joking, SANDOVAL asked, "What's the issue?" VARELA replied, "Uh, the driver was telling me, he just called me"—chuckling, VARELA continued—"he told me, 'Hey, I'm on my way over.' And I know it's really close by, so he's already unloading there with you? All right, it's all ready; it's ready and set."

SANDOVAL chastened VARELA for teasing her about there being "problems": "You scared me, Joel. Don't scare me because then I'm going to get diabetes and it's going to cost you more, okay?" VARELA then instructed SANDOVAL, "I know, listen; don't let him leave any forms there with you. Have him bring them to me instead"

On April 24, 2012, an employee of GCCHB provided CBP officers with a T&E manifest for the churromais. According to the T&E, GCCHB was the broker and the churromais had been exported to Mexico with a consignee at "Distribuidora SAA Margarita Maza de Juarez, 4020 Col. Monte San Antonio, Tijuana." The T&E manifest falsely claimed that the churromais had been returned to Mexico and included a forged perforation mark, complete with double-dot C. Consistent with other forged manifests submitted to CBP in the course of the scheme, CBP does not have an independent copy of the supposedly perforated manifest.

After agents became aware of this diversion, they reviewed CBP and FDA records in which GCCHB brokered shipments for SANDOVAL. They discovered a total of three T&E manifests, brokered by GCCHB, each of which bore a double-dot C. Each of these manifests falsely stated that shipments of Mexican food products had been exported to Mexico.

Date Manifest Submitted to FDA	In-bond Number	Goods
4/27/12	331790874	Mexican food products
5/15/12	331791003	Mexican food products
6/22/12	331791191	Mexican food products