

Infamous Lobster Thief Faces Arrest For Dodging Restitution

By **Pete Brush**

Law360, New York (July 19, 2017, 3:07 PM EDT) -- A Manhattan federal judge ordered Arnold M. Bengis, who plundered South African lobster fisheries from 1987 until 2001, to serve 57 months in prison and to forfeit an additional \$37.3 million at a Wednesday resentencing convened after Bengis dodged his obligation to pay back the victims of his massive exploitation.

Manhattan U.S. District Judge Lewis A. Kaplan tacked the hefty sum on to \$5.9 million of forfeiture that Bengis already made after a 2004 plea deal. Bengis, now 81, admitted that year to U.S. charges of importing fish illegally caught in foreign waters.

Judge Kaplan said that the additional prison time might be “meaningless” since Bengis is believed to be in Israel. But prosecutor Kiersten A. Fletcher said that an arrest warrant will be issued shortly, adding that the U.S. government will “certainly try” to bring him back into custody.

“It is necessary to make clear that the U.S. is not going to tolerate this behavior in this case or any other case,” Judge Kaplan said. “One of these days there may be a knock at the door and a pair of handcuffs in his future.”

Bengis placed money that could have been used to make restitution to South Africa in family trusts overseen by SG Hambros on the island of Jersey in a “blatant attempt” to hold onto his money, Judge Kaplan said.

The new forfeiture order consisted of more than \$23 million — the value of 598 tons of lobster tails that the Bengis family poached in 1999 and 2000 alone — plus nearly \$11 million of accrued interest, Judge Kaplan said.

Judge Kaplan did not elaborate on whether the 57-month sentence was in addition to or supplementary of a 46-month sentence he gave Bengis in 2004, for which Bengis has served his time. The judge said he will offer more detail in a coming opinion.

The new sentencing came over Bengis' contention that the proceeding should never have taken place. His counsel Eric M. Creizman argued on Wednesday that there is “no basis” in the law governing resentencings for a previous judgment of forfeiture to be exceeded. But prosecutors have said that the judge has broad discretion.

Creizman said after the hearing that Bengis will appeal the additional forfeiture, South Africa's participation in the resentencing, the added prison time and the order to have a resentencing in the first place.

"The nature of South Africa's participation in the resentencing was improper, and the government breached its plea agreement with Bengis by using South Africa to do it," Creizman said.

Judge Kaplan may order Bengis to make additional restitution to South Africa as well. He said he will address that issue at a later date. South African officials told him at a recent hearing that the damage to their fisheries was about \$100 million.

The original \$22 million Bengis restitution order was the largest ever tied to a violation of the Lacey Act — the federal seafood anti-poaching law the defendant admitted violating — when it was issued by Judge Kaplan in 2013.

Daniel Levy, a McKool Smith LLP partner and former prosecutor who worked on the Bengis restitution matter, called the rare resentencing the result of a "dogged effort" by the U.S. government to make sure the defendant's victims are made whole.

"Judge Kaplan wisely saw Bengis' conduct for what it was: an effort to obstruct the government's effort to obtain restitution for the Republic of South Africa," Levy said.

The prosecution is represented by Kiersten A. Fletcher.

Bengis is represented by Eric M. Creizman of Creizman LLC.

South Africa is represented by Andrew Bauer of Arnold & Porter Kaye Scholer LLP.

The case is U.S. v. Bengis et al., case number 1:03-cr-00308, in the U.S. District Court for the Southern District of New York.

--Editing by Stephen Berg.

Update: This story has been updated with additional comment.