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**THREE SEAFOOD INDUSTRY EXECUTIVES SENTENCED TO FEDERAL
PRISON IN MASSIVE SEAFOOD POACHING AND SMUGGLING SCHEME**

DAVID N. KELLEY, the United States Attorney for the Southern District of New York; DALE JONES, the Director of the National Oceanic and Atmospheric Administration Fisheries' Office for Law Enforcement, and KYLE HUTCHINS, the Special Agent in Charge of the Newark, New Jersey, Office of the Bureau of Immigration and Customs Enforcement ("BICE"), announced that ARNOLD MAURICE BENGIS, JEFFREY NOLL, and DAVID BENGIS were sentenced to prison today in Manhattan federal court for their participation in a scheme to over-harvest massive quantities of South African rock lobster and Patagonian toothfish (known as Chilean seabass) illegally and then illegally import the fish into the United States.

United States District Judge LEWIS A. KAPLAN sentenced ARNOLD BENGIS to a term of imprisonment of 46 months; JEFFREY NOLL to 30 months; and DAVID BENGIS to 12 months in prison.

ARNOLD BENGIS was the Managing Director and Chairman of Hout Bay in Cape Town, South Africa, and he also exercised control over Icebrand and Associated in New York; NOLL was the Chairman and President of both Associated and Icebrand in New York; and DAVID BENGIS was the President of Icebrand Seafoods Maine Inc., in Portland, Maine.

ARNOLD BENGIS and JEFFREY NOLL each previously had pled guilty to one count of conspiracy to violate the United States' Lacey Act and to commit smuggling, and three separate counts of violating the Lacey Act, a statute which makes it a crime to import into the United States and transport wildlife caught in violation of foreign or state law. DAVID BENGIS had pled guilty to one misdemeanor count of conspiracy to violate the Lacey Act. Specifically, all three defendants were charged with importing illegally-harvested wildlife (South African South Coast and West Coast rock lobster and Patagonian toothfish) into the United States. The Indictment alleges that the lobster and toothfish had been harvested in violation of both South African law and international convention, by being caught in amounts well in excess of quota established by South African law or without required permits.

As part of their sentences, ARNOLD BENGIS and NOLL also were ordered to forfeit a total of \$5.9 million to the Government; and DAVID BENGIS was ordered to forfeit the proceeds

of the sale of his fish-processing factory in Portland, Maine, a sum of \$1.5 million. Judge KAPLAN ordered that the issue of restitution be addressed at a future hearing.

As charged in the Indictment, the scheme was conducted through Hout Bay Fishing Industries (PTY) Ltd ("Hout Bay") in Cape Town and three U.S. companies affiliated with Hout Bay: Icebrand Seafoods, Inc. ("Icebrand"), Associated Sea Fisheries Inc. ("Associated") in Manhattan, and Icebrand Seafoods Maine Inc. ("Icebrand Maine") in Portland, Maine.

According to the Indictment, since at least 1987 and up to August 1, 2001, ARNOLD BENGIS, his son DAVID BENGIS, and JEFFREY NOLL, and their co-conspirators, engaged in an elaborate scheme first to harvest illegally large quantities of South and West Coast rock lobster and Patagonian toothfish, far in excess of applicable quotas, and then to export the illegal fish from South Africa to the United States.

The defendants under-reported the fish harvest to South African authorities, and bribed South African fisheries inspectors to help them carry out their illegal harvesting scheme. The Indictment also accuses the defendants of submitting false export documents to South African authorities to conceal their over-harvesting.

In May 2001, South African authorities seized and opened a container of illegally harvested fish that ARNOLD BENGIS and his co-conspirators were attempting to export to the United

States. In June 2001, Special Agents from NOAA Fisheries Office for Law Enforcement and the Bureau of Immigration and Customs Enforcement (BICE) also seized a container in Newark, New Jersey, containing 40,000 pounds Patagonian toothfish and 15,000 pounds of rock lobster, valued at approximately \$460,000.

Following these seizures, according to the Indictment, ARNOLD BENGIS and his co-conspirators engaged in a series of elaborate deceptions designed to avoid detection and perpetuate the scheme. Among other things, the Indictment charges that ARNOLD BENGIS and his co-conspirators altered and destroyed documents indicating the actual quantity of seafood harvested by fishing vessels in South Africa; and that the defendants removed large quantities of rock lobster from Hout Bay's storage facility in Cape Town, South Africa, and concealed them from authorities. The Indictment also alleges the scheme involved transporting large quantities of lobster from a storage warehouse in Newark, New Jersey, to Massachusetts, and diverting an illegal shipment, to Singapore and Hong Kong, from its intended destination of Manhattan, in order to avoid its seizure by United States authorities.

At today's sentencing, Judge KAPLAN rejected the defendants' motion for a downward departure on the ground that the South African government previously had investigated the matters at issue in the case. (The Government had filed a brief opposing the defendants' departure motion noting, among other

things that, while ARNOLD BENGIS's company, Hout Bay, had been prosecuted in South Africa, these defendants had never been arrested in South Africa; never were charged there; and never spent a day in jail there.) In rejecting the defendants' motion, Judge KAPLAN acknowledged (among other things) the important United States interests involved in the prosecution, and noted that the defendants were living in the United States while the South African investigation was pending. Judge KAPLAN determined that he had no authority to depart under United States law, and that, even if he had the authority to depart, he would decline to do so. In ruling, Judge KAPLAN remarked on ARNOLD BENGIS's "astonishing display of arrogance" tied to his wealth and power. Among other things, Judge KAPLAN pointed to the facts, undisputed by the defendants, that ARNOLD BENGIS, during the course of the United States investigation, had: (i) withheld documents responsive to grand jury subpoenas; (ii) shredded important documents to keep from the hands of U.S. law enforcement; and (iii) even hired a private investigator to follow the United States agents during their investigation. Judge KAPLAN also noted the evidence proffered by the Government that ARNOLD BENGIS had previously expressed his skepticism about ever being prosecuted because he had "f___ y___ money."

ARNOLD BENGIS, 68, is a South African and United States national who has residences in Manhattan and Bridgehampton, New

York; and Cape Town, South Africa. He was arrested on August 7, 2003.

JEFFREY NOLL, 53, is a United States citizen who lives in Marietta, Georgia. He also was arrested on August 7, 2003.

DAVID BENGIS, 34, is a United States citizen who lives in Portland, Maine. He also was arrested on August 7, 2003.

Mr. KELLEY praised the investigative efforts of NOAA and BICE, and the assistance of the Directorate of Special Operations, National Prosecuting Authority of South Africa (commonly known as the "Scorpions") and South Africa's Marine and Coastal Management, a branch of the Department of Environmental Affairs and Tourism.

Mr. KELLEY stated: "Today's guilty pleas culminate a three-year investigation into the illegal poaching and smuggling activities of these defendants. These defendants engaged in brazen scheme to over-harvest massive amounts of fish from the waters of South Africa and then smuggle that illegal fish into the United States, where they sought to exploit their criminal conduct by selling it on the American market for a considerable profit. Once their scheme was detected, they then embarked on a series of deceptive actions intended to thwart the joint investigative efforts of the United States and the Republic of South Africa. This prosecution shows that the United States Government is committed to enforcing vigorously both the American

laws designed to protect domestic and foreign wildlife and those designed to protect the integrity of commerce in the United States."

Assistant United States Attorney MARCUS A. ASNER is in charge of the prosecution and Assistant United States Attorney KATHERINE LEMIRE is in charge of the forfeiture aspects of the prosecution.

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