

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN/DUBUQUE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AGRIPROCESSORS, INC.,
SHOLOM RUBASHKIN,
BRENT BEEBE,
HOSAM AMARA, and
ZEEV LEVI,

Defendants.

No. CR 08-1324 LRR

COUNT 1

8 U.S.C. §§ 1324(a)(1)(A)(v)(I) and
1324(a)(1)(B)(i): Conspiracy to Harbor
Undocumented Aliens for Profit

COUNT 2

8 U.S.C. §§ 1324(a)(1)(A)(iii),
1324(a)(1)(A)(iv), 1324(a)(1)(A)(v)(II)
and 1324(a)(1)(B)(i): Harboring and
Aiding and Abetting the Harboring of
Undocumented Aliens for Profit

COUNT 3

18 U.S.C. § 371: Conspiracy to
Commit Document Fraud

COUNT 4

18 U.S.C. §§ 1546(a) and 2: Aiding
and Abetting Document Fraud

COUNTS 5-11

18 U.S.C. §§ 1028A(a)(1) and 2:
Aiding and Abetting Aggravated
Identity Theft

COUNT 12

18 U.S.C. § 1078: Unlawful Flight to
Avoid Prosecution

COUNTS 13-27

18 U.S.C. § 1344: Bank Fraud

COUNTS 28-69

18 U.S.C. § 1014: False Statements
and Reports to a Bank

PRESENTED IN OPEN COURT
BY THE
FOREMAN OF THE GRAND JURY
IN THE PRESENCE OF THE
GRAND JURY

And filed 01/15/09
ROBERT L. PHELPS, CLERK

-) COUNTS 70-79
-) 18 U.S.C. §§ 1956(a)(1)(A)(i),
-) 1956(a)(1)(B)(i) and 2: Money
-) Laundering and Aiding and Abetting
-)
-) COUNTS 80-99
-) 7 U.S.C. § 195 and 18 U.S.C. § 2:
-) Willful Violation of Order of Secretary
-) of Agriculture and Aiding and Abetting
-)
-) FORFEITURE ALLEGATION
-)

FOURTH SUPERSEDING INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

1. At all times relevant to this Indictment:
 - a. Defendant AGRIPROCESSORS, INC. ("AGRIPROCESSORS, INC." or "AGRIPROCESSORS") was a corporation organized and existing under the laws of the State of Iowa. Defendant AGRIPROCESSORS was engaged in the business of buying cattle and poultry for the purposes of slaughter, processing and preparing meat for sale. One hundred percent of defendant AGRIPROCESSORS' stock was owned by A.R., an individual living in Brooklyn, New York. Defendant AGRIPROCESSORS sold meat products, both in the United States and internationally, under the trademarked names Iowa Best Beef, Shor Habor, Aaron's Best, and Rubashkin.
 - b. Defendant AGRIPROCESSORS' primary meatpacking facility was located in Postville, Iowa, where it processed both beef and poultry products. Prior to an

immigration enforcement action on May 12, 2008, the Postville facility employed a labor force of approximately 900 to 1,000 persons at any given time.

c. Defendant SHOLOM RUBASHKIN was a vice president of defendant AGRIPROCESSORS and exercised day to day control over the Postville facility. Although a new Chief Executive Officer was publicly named in September 2008, defendant RUBASHKIN continued to exercise day to day control over the Postville facility and its finances. Defendant RUBASHKIN is the son of defendant AGRIPROCESSORS' owner, A.R.

d. Production at defendant AGRIPROCESSORS' Postville facility was primarily divided into the beef side and the poultry side. Each side of the facility operated under a tiered supervisory structure with each level designated by a different colored hard hat. The line supervisors were designated leadpersons or "green-hats." The leadpersons reported to supervisors or "yellow-hats." The supervisors reported to managers or "orange-hats." The managers reported to one of two Operations Managers at the Postville facility.

e. Defendant BRENT BEEBE was one of two Operations Managers at the Postville facility. Among other responsibilities, defendant BEEBE oversaw all of the beef side production at the facility. He was also the manager of the "beef kill" department where cattle were killed to begin the beef processing procedure. Defendant BEEBE reported directly to defendant RUBASHKIN.

f. Defendant HOSAM AMARA was a manager on the poultry side of the Postville facility. Prior to a consolidation of shifts in approximately April 2008, defendant AMARA managed the poultry second shift. Defendant AMARA exercised substantial control over the poultry side production and was effectively under the direct supervision of defendant RUBASHKIN.

g. Defendant ZEEV LEVI was a manager on the poultry side of the Postville facility. Prior to the shift consolidation in approximately April 2008, defendant LEVI managed the poultry first shift. Defendant LEVI reported to the poultry side Operations Manger.

h. Coconspirator Carlos Guerrero-Espinoza was a supervisor on the beef side of the Postville facility including the "beef kill" department. Guerrero-Espinoza supervised approximately 60 production employees including approximately three beef leadpersons. Guerrero-Espinoza reported to defendant BEEBE.

i. Coconspirator Martin De La Rosa-Loera was a supervisor on the poultry side of the Postville facility. De La Rosa-Loera reported to defendant LEVI.

j. Coconspirator Laura Althouse was an AGRIPROCESSORS employee responsible for AGRIPROCESSORS' payroll. Althouse also performed other duties related to human resources. Althouse reported to the Human Resources Manager.

Defendant AGRIPROCESSORS' Duty to Provide Prompt Payment for Livestock

2. At all times relevant to this Indictment, defendant AGRIPROCESSORS was engaged in the business of buying livestock in commerce for purposes of slaughter,

manufacturing and preparing meat for sale in commerce. As such, defendant AGRIPROCESSORS was a "packer" for the purposes of certain laws regulating payments to livestock providers for livestock. Under the law, packers must generally pay for all livestock no later than the next business day after purchase of the livestock. On or about March 7, 2002, due to defendant AGRIPROCESSORS' prior failures to comply with the law, the United States Secretary of Agriculture issued an order against defendant AGRIPROCESSORS and its agents and employees. The order required defendant AGRIPROCESSORS to cease and desist from failing to pay, when due, the full purchase price of livestock as required by law, and failing to deposit checks issued in payment for livestock in the mail before the close of the next business day after the purchase of such livestock as required by law.

**Defendant AGRIPROCESSORS' Duty to Examine and Document
Employees' Proof of Employment Eligibility**

3. Like any employer, within three days of hiring a new employee, defendant AGRIPROCESSORS was required by law to examine proof that the employee was eligible for employment in the United States. Specifically, defendant AGRIPROCESSORS was required to examine a specified combination of original identification documents establishing both the employees' identity and authorization for employment. The document examination was required to be recorded on the employer's portion of an Immigration Form I-9, and the I-9 was required to be certified by the AGRIPROCESSORS employee who examined the documents. When an employee's proof of employment authorization was subject to expiration,

AGRIPROCESSORS was required to reverify the employee's employment authorization and update the I-9.

4. Among the identification documents that could be accepted as proof of both identity and employment authorization was the Immigration Form I-551, Resident Alien Card. A Resident Alien Card is issued by immigration authorities to aliens authorized to reside and work in the United States. Each legitimate Resident Alien Card contains a photograph of the alien to whom it is issued and a unique resident alien number assigned to that specific alien.

Defendant AGRIPROCESSORS' Revolving Loan

5. On or about September 23, 1999, defendant AGRIPROCESSORS entered into a revolving loan agreement (the "loan agreement" or "revolving loan") with First Bank Business Capital, Inc. ("FBBC"), formerly known as FB Commercial Finance Inc.

a. At all times relevant to this Indictment, FBBC was a subsidiary of First Bank, which is a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation. FBBC received its funding from First Bank. The original loan agreement was modified and amended.

b. Under the most recent version, the loan agreement allowed defendant AGRIPROCESSORS to borrow up to a maximum of \$35,000,000. The actual amount of credit depended upon the amount of qualifying collateral defendant AGRIPROCESSORS had available at any given time. The allowable balance to be borrowed on the revolving loan was computed using a borrowing base formula which included 85% of accounts receivable and 50% of inventory on hand. Throughout 2008,

defendant AGRIPROCESSORS consistently maintained a balance owed on this line of credit in excess of \$32,000,000.

c. Under the loan agreement, customer accounts receivable payments to defendant AGRIPROCESSORS constituted part of FBBC's collateral for the revolving loan. Accordingly, the loan agreement established a mandatory procedure for the immediate transfer of customer payments to FBBC. The loan agreement required defendant AGRIPROCESSORS to immediately deposit all collections on customer accounts into a depository account in the form received. In other words, if the customer payment was in the form of a check, the loan agreement required that the customer check be immediately deposited into the depository account. A depository account was established at Decorah Bank and Trust Company (the depository account) for the purpose of receiving such payments.

d. The loan agreement included certain representations and warranties on behalf of defendant AGRIPROCESSORS. For example, defendant AGRIPROCESSORS represented and warranted that it was not in violation of any law, statute, or regulation applicable to defendant AGRIPROCESSORS, which violation would in any respect materially and adversely affect the collateral or defendant AGRIPROCESSORS' property, business, operations or condition (financial or otherwise). In addition, defendant AGRIPROCESSORS represented and warranted that each account listed on every Collateral Certificate was genuine, and that there were no offsets, counterclaims or material disputes existing with respect to the account.

e. Each time defendant AGRIPROCESSORS requested an advance of funds on the revolving loan, an AGRIPROCESSORS officer was required to certify that

defendant AGRIPROCESSORS' representations and warranties in the loan agreement were true as of the date of the request. In addition, each time defendant AGRIPROCESSORS requested an advance on the revolving loan, an officer was required to certify the amount of available collateral.

f. Defendant AGRIPROCESSORS requested an advance on the revolving loan nearly every business day during the life of the revolving loan.

The May 12, 2008, Enforcement Action

6. On May 12, 2008, United States Immigration and Customs Enforcement ("ICE") conducted a worksite enforcement action at defendant AGRIPROCESSORS' Postville facility. Approximately 500 persons were encountered working at the facility. Among those, ICE agents arrested approximately 389 alien workers who were unlawfully present in the United States and unauthorized to work in the United States.

FBBC's Lawsuit and Defendant AGRIPROCESSORS' Bankruptcy

7. On or about October 30, 2008, FBBC brought a lawsuit against defendant AGRIPROCESSORS, its owner, certain related companies, and defendant SHOLOM RUBASHKIN. The lawsuit alleged, among other things, the diversion of FBBC's collateral (specifically, accounts receivable). The lawsuit sought, among other things, repayment of the loan balance and appointment of a receiver.

8. On or about November 4, 2008, defendant AGRIPROCESSORS filed for Chapter 11 bankruptcy reorganization. A trustee was appointed on or about November 20, 2008.

COUNT 1

Conspiracy to Harbor Undocumented Aliens

(Agriprocessors, Inc., Sholom Rubashkin, Brent Beebe,
Hosam Amara, and Zeev Levi)

Introduction

9. The introductory allegations of this Indictment are realleged as if fully set forth herein.

The Conspiracy

10. Beginning on an unknown date and continuing to at least May 2008, in the Northern District of Iowa and elsewhere, defendants AGRIPROCESSORS, INC., SHOLOM RUBASHKIN, BRENT BEEBE, HOSAM AMARA, ZEEV LEVI, and others known and unknown to the grand jury, did knowingly and willfully combine, conspire, and agree to commit the following offenses for the purpose of commercial advantage and private financial gain:

- (A) harbor one or more aliens at defendant AGRIPROCESSORS' facility in Postville, Iowa, knowing and in reckless disregard of the fact that such aliens had come to, entered and remained in the United States in violation of law, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iii); and
- (B) encourage and induce one or more aliens to reside in the United States, knowing and in reckless disregard of the fact that such residence was in violation of law, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iv).

11. This was in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(v)(I) and 1324(a)(1)(B)(I).

Manner and Means of the Conspiracy

12. Defendant AGRIPROCESSORS, through several of its managers and employees, including but not limited to defendants RUBASHKIN, BEEBE, AMARA and LEVI, knowingly employed a large number of undocumented aliens at defendant AGRIPROCESSORS' Postville facility and related facilities.

13. In order to maintain a workforce which included a large number of undocumented aliens, defendants RUBASHKIN, BEEBE, AMARA and LEVI took various measures in an attempt to conceal the workers' unlawful employment. Such measures included, but were not limited to, the following:

a. Defendant RUBASHKIN, on behalf of defendant AGRIPROCESSORS, caused certain undocumented alien workers to be paid off the books and in cash. In order to pay such workers, defendant RUBASHKIN caused checks to be written to R.W., and later, to R.W.'s church, so that R.W. could then cash the checks and pay the workers in cash. Defendant RUBASHKIN did so, in part, to conceal the fact that such undocumented alien workers were performing work on behalf of defendants AGRIPROCESSORS and RUBASHKIN.

b. Defendants RUBASHKIN and AMARA, on behalf of defendant AGRIPROCESSORS, caused certain undocumented alien workers to be placed on the payroll for a separate company, H.E. Defendants RUBASHKIN and AMARA caused the workers to be placed on the H.E. payroll, knowing they did not have proper documentation, for the purpose of making it appear that the workers were not

AGRIPROCESSORS employees. In fact, the workers performed work in the poultry department at AGRIPROCESSORS' Postville plant.

c. Defendants RUBASHKIN, BEEBE, AMARA and LEVI, on behalf of defendant AGRIPROCESSORS, caused and encouraged undocumented alien workers, who were already working at AGRIPROCESSORS' Postville facility, to obtain new, false identification documents and submit new application paperwork. Defendant RUBASHKIN, through defendant BEEBE and others, provided money to be loaned to the workers for the purchase of the new, false identification documents. Defendants RUBASHKIN and BEEBE facilitated and oversaw the re-application process. Defendants RUBASHKIN and BEEBE did so in an attempt to conceal the fact that AGRIPROCESSORS was knowingly employing undocumented alien workers.

COUNT 2

Harboring Undocumented Aliens

(Agriprocessors, Inc., Sholom Rubashkin, Brent Beebe,
Hosam Amara, and Zeev Levi)

14. Beginning on an unknown date and continuing to at least May 2008, in the Northern District of Iowa and elsewhere, defendants AGRIPROCESSORS, INC., SHOLOM RUBASHKIN, BRENT BEEBE, HOSAM AMARA, and ZEEV LEVI did, for the purpose of commercial advantage and private financial gain:

(A) harbor, and aid and abet the harboring of, one or more aliens at defendant AGRIPROCESSORS' facility in Postville, Iowa, knowing and in reckless disregard of the fact that such aliens had come to, entered and remained in the United States in violation of law; and

(B) encourage and induce, and aid and abet the encouragement and inducement of, one or more aliens to reside in the United States, knowing and in reckless disregard of the fact that such residence was in violation of law.

15. This was in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iii), 1324(a)(1)(A)(iv), 1324(a)(1)(A)(v)(II) and 1324(a)(1)(B)(i).

COUNT 3

Conspiracy to Commit Document Fraud

(Agriprocessors, Inc., Sholom Rubashkin, Brent Beebe,
Hosam Amara, and Zeev Levi)

16. The introductory allegations of this Indictment are realleged as if fully set forth herein.

17. In about April and May 2008, in the Northern District of Iowa and elsewhere, defendants AGRIPROCESSORS, INC., SHOLOM RUBASHKIN, BRENT BEEBE, HOSAM AMARA, ZEEV LEVI, and others known and unknown to the grand jury, did knowingly and willfully combine, conspire, and agree to use, possess, obtain, accept and receive documents prescribed by statute or regulation for entry into or as evidence of authorized stay and employment in the United States, that is, resident alien cards, knowing such cards to have been forged, counterfeited, altered, falsely made, procured by means of any false claim or statement, and to have been otherwise procured by fraud or unlawfully obtained, in violation of 18 U.S.C. § 1546(a).

18. In furtherance of the conspiracy and to effect the object of the conspiracy, the following overt acts, among others, were committed in the Northern District of Iowa and elsewhere:

Overt Act 1: In about late April and early May 2008, defendants and Agriprocessors poultry managers HOSAM AMARA and ZEEV LEVI each told coconspirator and poultry supervisor Martin De La Rosa that several of the employees under his supervision were to be terminated because they were known to be working under bad employment documents. After several discussions, defendants AMARA and LEVI identified approximately six such employees who they would allow to continue working at Agriprocessors if they obtained new documents.

Overt Act 2: Defendant LEVI told De La Rosa to instruct the employees to obtain new documents as soon as possible.

Overt Act 3: Shortly afterward, De La Rosa told a coconspirator and poultry leadperson (herein after "poultry leadperson") to obtain new documents as soon as possible and to tell the other five employees to do the same.

Overt Act 4: As directed, the six employees each obtained fake social security cards and resident alien cards and caused the documents to be delivered to De La Rosa.

Overt Act 5: Thereafter, De La Rosa gave the six employees' new fake documents to defendant LEVI.

Overt Act 6: Defendant LEVI took the documents to Agriprocessors' Human Resources department.

Overt Act 7: Defendant LEVI returned from the Human Resources department and told De La Rosa there was a problem with the cards. Defendant LEVI gave the documents back to De La Rosa.

Overt Act 8: Thereafter, De La Rosa returned the documents to the poultry leadperson so that the poultry leadperson could attempt to have them corrected by the seller.

Overt Act 9: The poultry leadperson was not able to have the documents corrected and returned the documents to De La Rosa and defendant LEVI.

Overt Act 10: Defendant LEVI took the documents to the Human Resources department again.

Overt Act 11: Defendant LEVI returned and told De La Rosa the documents were no longer needed, and the employees could continue working at Agriprocessors. LEVI gave the documents back De La Rosa who caused them to be returned to the employees.

Overt Act 12: On or about May 8, 2008, defendant and Agriprocessors Operations Manager BRENT BEEBE met with coconspirator and Agriprocessors beef department supervisor Juan Carlos Guerrero-Espinoza to discuss employees in Guerrero-Espinoza's department who were known to be working under bad employment documents. Defendant BEEBE told Guerrero-Espinoza to meet with the employees and determine how to help them.

Overt Act 13: Later that day, Guerrero-Espinoza met with several of the employees in his department including a coconspirator and beef leadperson

(hereinafter "beef leadperson"). Guerrero-Espinoza told the employees that, in order to continue working at Agriprocessors, they would have to get new identification documents in new names.

Overt Act 14: During the same meeting, the beef leadperson told the others that he could obtain the new documents for the employees but that it would cost each employee \$300.

Overt Act 15: The beef leadperson later spoke to his fake document source and the cost was changed to \$200 due to the volume.

Overt Act 16: After the meeting with the employees, Guerrero-Espinoza met with defendant BEEBE and reported that the employees needed help with money and the total cost to help the employees would be approximately \$4,500. Defendant BEEBE and Guerrero-Espinoza discussed trying to obtain a loan for the employees.

Overt Act 17: Later that evening, defendant BEEBE took Guerrero-Espinoza to meet with defendant and Agriprocessors vice president SHOLOM RUBASHKIN near the barn area at Agriprocessors.

Overt Act 18: Defendant RUBASHKIN, defendant BEEBE, and Guerrero-Espinoza discussed the employees in Guerrero-Espinoza's department needing \$4,500 in loans.

Overt Act 19: On or about May 9, 2008, defendant BEEBE and defendant RUBASHKIN called Guerrero-Espinoza to a meeting in the area of defendant RUBASHKIN's office at Agriprocessors.

Overt Act 20: Defendant RUBASHKIN, defendant BEEBE, and Guerrero-Espinoza again discussed the employees' need for \$4,500 in loans.

Overt Act 21: Defendant RUBASHKIN agreed to loan the money.

Overt Act 22: Defendant RUBASHKIN also suggested defendant BEEBE and Guerrero-Espinoza provide similar assistance to other employees from other departments at Agriprocessors.

Overt Act 23: Later, on or about May 9, 2008, defendant BEEBE delivered \$4,500 in cash to Guerrero-Espinoza to be used for loans to the employees.

Overt Act 24: Later, on or about May 9, 2008, Guerrero-Espinoza met with the beef leadperson and several Agriprocessors employees in the offices of the beef department. The employees provided money, photographs, fake names and dates of birth to the beef leadperson.

Overt Act 25: Guerrero-Espinoza loaned a portion of the \$4,500 he had received from defendant BEEBE to some of the employees from Guerrero-Espinoza's department.

Overt Act 26: On or about May 9, 2008, defendant RUBASHKIN asked coconspirator and Agriprocessors Human Resources department employee Laura Althouse to come to work on May 11, 2008, to process new application paperwork for several people, and Althouse agreed.

Overt Act 27: On or about May 10 and 11, 2008, the beef leadperson obtained new fake social security cards and fake resident alien cards for the Agriprocessors

employees under Guerrero-Espinoza's supervision and many other Agriprocessors employees.

Overt Act 28: On or about May 11, 2008, defendant BEEBE directed Guerrero-Espinoza to stop the beef kill approximately one hour earlier than usual.

Overt Act 29: That afternoon, the beef leadperson returned to Agriprocessors with the new fake social security cards and fake resident alien cards.

Overt Act 30: Guerrero-Espinoza and the beef leadperson passed out the new cards to the employees in the offices of the beef department.

Overt Act 31: Also on or about May 11, 2008, after obtaining their new fake cards, an initial group of employees went to the Human Resources department. There, they met with defendant RUBASHKIN, defendant BEEBE and Althouse.

Overt Act 32: Defendant RUBASHKIN inspected several of the new fake resident alien cards.

Overt Act 33: Defendant BEEBE and Althouse assisted the employees in completing new application paperwork using the names and information on the fake resident alien cards.

Overt Act 34: Guerrero-Espinoza arrived and assisted in the process.

19. This was in violation of Title 18, United States Code, Section 371.

COUNT 4

Aiding and Abetting Document Fraud

(Agriprocessors, Inc., Sholom Rubashkin, Brent Beebe,
Hosam Amara, and Zeev Levi)

20. In about April and May 2008, in the Northern District of Iowa, defendants AGRIPROCESSORS, INC., SHOLOM RUBASHKIN, BRENT BEEBE, HOSAM AMARA, and ZEEV LEVI aided and abetted Agriprocessors employees who did knowingly use, possess, obtain, accept, and receive resident alien cards. Defendants AGRIPROCESSORS, INC., SHOLOM RUBASHKIN, BRENT BEEBE, HOSAM AMARA, and ZEEV LEVI then and there well knew the resident alien cards to have been forged, counterfeited, altered, falsely made, procured by means of a false claim or statement, and to have been otherwise procured by fraud or unlawfully obtained. Resident alien cards are documents prescribed by statute or regulation for entry into or as evidence of authorized stay and employment in the United States.

21. This was in violation of Title 18, United States Code, Section 1546(a) and Section 2.

COUNTS 5 through 10

Aiding and Abetting Aggravated Identity Theft

(Agriprocessors, Inc., Sholom Rubashkin, and Brent Beebe)

22. In about May 2008, in the Northern District of Iowa, defendants AGRIPROCESSORS, INC., SHOLOM RUBASHKIN, and BRENT BEEBE, during and in relation to the offenses set out in Counts 1, 2 and 4 above, did knowingly aid and abet the transfer, possession, and use of, without lawful authority, means of

identification of other persons. Specifically, defendants aided and abetted the transfer, possession and use of resident alien numbers which were then assigned to other persons. The resident alien numbers, identified by their last three digits and the names associated therewith, were as follows:

Count 5	645 (Ronald Sombra document)
Count 6	458 (Yesmi Loera document)
Count 7	790 (Lester Lopez document)
Count 8	373 (Reynaldo Lopez Nunez document)
Count 9	565 (Monica Hernandez document)
Count 10	598 (Lera Chernova document)

23. This was in violation of Title 18, United States Code, Section 1028A(a)(1) and Section 2.

COUNT 11

Aiding and Abetting Aggravated Identity Theft

(Agriprocessors, Inc., and Hosam Amara)

24. During about April or May 2008, in the Northern District of Iowa, defendants AGRIPROCESSORS, INC. and HOSAM AMARA, during and in relation to the offenses set out in Counts 1, 2 and 4 above, did knowingly aid and abet the transfer, possession, and use of, without lawful authority, a means of identification of another person, that is, a resident alien number with the last three digits "146" appearing on document in the name of Juan Arias Hernandez.

25. This was in violation of Title 18, United States Code, Section 1028A(a)(1) and Section 2.

COUNT 12

Unlawful Flight to Avoid Prosecution

(Hosam Amara)

26. In about June 2008, in the Northern District of Iowa, defendant HOSAM AMARA did move and travel in foreign commerce from Postville, Iowa, to the country of Israel, with intent to avoid prosecution by the United States of America for crimes which are felonies and are punishable by more than one year in prison.

27. This was in violation of Title 18, United States Code, Section 1073.

COUNTS 13 through 27

Bank Fraud

(Agriprocessors, Inc. and Sholom Rubashkin)

28. The introductory allegations of this Indictment, the Manner and Means allegations from Count 1, and the Overt Acts alleged in Count 3, are realleged as if fully set forth herein.

29. Beginning on a date unknown to the grand jury and continuing through about October 2008, in the Northern District of Iowa and elsewhere, defendants AGRIPROCESSORS and SHOLOM RUBASHKIN knowingly executed, and attempted to execute, a scheme to obtain funds under the control of First Bank and FBBC by means of fraudulent pretenses, representations and promises.

The Scheme to Defraud

30. Defendants AGRIPROCESSORS and RUBASHKIN committed the following acts as part of the scheme to defraud First Bank and FBBC.

Concealment and False Statements Regarding Compliance with the Law

31. During the life of the revolving loan agreement with FBBC, defendants AGRIPROCESSORS and RUBASHKIN knowingly harbored and conspired to harbor undocumented alien workers by providing employment to such workers.

32. Defendant RUBASHKIN, on behalf of defendant AGRIPROCESSORS, and in violation of the loan agreement, caused false certifications to be sent to FBBC regarding defendant AGRIPROCESSORS' compliance with laws and regulations. Defendant RUBASHKIN and defendant AGRIPROCESSORS certified defendant AGRIPROCESSORS' compliance with laws and regulations even though, as defendant RUBASHKIN well knew, defendant AGRIPROCESSORS was knowingly harboring undocumented aliens. Defendant RUBASHKIN caused such certifications to be sent on numerous occasions, including each and every time AGRIPROCESSORS requested an advance under the loan agreement.

33. Defendant RUBASHKIN, on behalf of defendant AGRIPROCESSORS, falsely stated to FBBC representatives that he had been unaware certain alien workers were undocumented. Defendant RUBASHKIN made the statement shortly after the arrests of approximately 389 such workers on May 12, 2008, and for the purpose of inducing FBBC to continue to advance money under the loan agreement.

Fraudulent Diversion of Bank Collateral (Accounts Receivable) and Concealment

34. During the life of the loan agreement, defendant RUBASHKIN, on behalf of defendant AGRIPROCESSORS, and contrary to the terms the loan agreement, fraudulently diverted customer payments on accounts receivable. Defendant RUBASHKIN did so, in part, by causing defendant AGRIPROCESSORS' customer

payments to be diverted into defendant AGRIPROCESSORS' accounts at different banks rather than being deposited into the depository account at Decorah Bank and Trust Company as required by the loan agreement.

35. From about January 2007 through about September 2008, defendant RUBASHKIN caused approximately \$26,400,000.00 in AGRIPROCESSORS' customer checks to be improperly diverted into defendant AGRIPROCESSORS' account at Citizens State Bank ("CSB").

36. In order to conceal the diversion of customer payments made by check, on several occasions, defendant RUBASHKIN caused accounting personnel to bundle customer checks for deposit into the CSB account and then add an additional check for the purpose of bringing the total deposit up to a large, round amount. Defendant RUBASHKIN did so in order to make the deposits appear to consist of something other than diverted customer payments.

37. Defendant RUBASHKIN hid from FBBC the fact that the diverted customer payments had been received by, among other things, causing defendant AGRIPROCESSORS' books to inaccurately reflect that no such payments had been received. Defendant RUBASHKIN did so by causing defendant AGRIPROCESSORS accounting personnel to delay the proper entry of such payments into defendant AGRIPROCESSORS' accounting system. Defendant RUBASHKIN caused the accounting personnel to maintain a second set of books to account for the customer payments which had been received and diverted but not yet entered into AGRIPROCESSORS' accounting system. By doing this, defendant RUBASHKIN caused defendant AGRIPROCESSORS' books to inaccurately reflect that customers

owed inflated amounts of money on their accounts. As a result, defendant RUBASHKIN caused false certifications to be sent to FBBC on behalf of defendant AGRIPROCESSORS regarding the amount of defendant AGRIPROCESSORS' accounts receivable.

38. But for the diversion of customer payments, the balance on the revolving loan would have been paid down using customer payments as the customer payments were received and deposited into the depository account. In order to continue to obtain advances from FBBC under the loan agreement and to hide the improper diversion of customer checks, defendant RUBASHKIN needed to deposit funds into the depository account in a way that made the deposits look like customer payments. Therefore, defendant RUBASHKIN took measures to pay down the balance in a manner which made the funds appear as though they had been received directly from customers. Such measures included causing funds to be transferred to purported third party entities. In fact, defendant RUBASHKIN controlled the third party entities. Defendant RUBASHKIN then caused AGRIPROCESSORS accounting personnel to draft checks in the names of those third party entities, payable to AGRIPROCESSORS, for deposit into the depository account. In order to make the deposits appear to be customer payments, on several occasions, defendant RUBASHKIN caused AGRIPROCESSORS accounting personnel to have larger deposits split among two or more checks written in odd (seemingly random) amounts.

39. One of the third party entities used by defendant RUBASHKIN in this manner was Kosher Community Grocery, Inc. ("Kosher Community"), a small grocery store in Postville, Iowa. From about August 2007 through about March 2008, for the purpose of

concealing this portion of the scheme, defendant RUBASHKIN caused approximately \$10,600,000.00 in AGRIPROCESSORS' funds to be transferred through a Kosher Community bank account and into the depository account.

40. Another of the third party entities used by defendant RUBASHKIN in this manner was Torah Education Program of Northeast Iowa ("Torah Education"), a organization intended to fund Jewish education in and around Postville, Iowa. From about August 2007 through about May 2008, for the purpose of concealing this portion of the scheme, defendant RUBASHKIN caused approximately \$9,600,000.00 in AGRIPROCESSORS' funds to be transferred through a Torah Education bank account and into the depository account.

41. On or about October 30, 2008, FBBC brought a lawsuit against defendant AGRIPROCESSORS alleging, among other things, diversion of FBBC's collateral. Just before and just after the lawsuit was filed, defendant RUBASHKIN took measures to conceal the diversion of FBBC collateral by collecting evidence of the diversion and causing the destruction of evidence of the diversion. On October 29, 2008, defendant collected from an AGRIPROCESSORS accounting employee a thumb drive containing digital evidence of the diversion. At the same time, defendant RUBASHKIN collected photocopies of diverted checks from the same AGRIPROCESSORS accounting employee. On October 31, 2008, defendant caused the same AGRIPROCESSORS accounting employee to delete evidence of diverted checks from AGRIPROCESSORS' computer accounting system.

The Execution of the Scheme to Defraud

42. On or about the dates set forth below, defendants SHOLOM RUBASHKIN and AGRIPROCESSORS, in execution and in furtherance of the scheme to obtain money and funds owned by and under the custody and control of First Bank and FBBC, knowingly caused FBBC to advance money to defendant AGRIPROCESSORS under the revolving loan:

Count	Date	Amount
13	September 4, 2007	\$2,900,000.00
14	October 1, 2007	\$525,000.00
15	November 1, 2007	\$825,000.00
16	December 3, 2007	\$1,210,000.00
17	January 2, 2008	\$1,550,000.00
18	February 1, 2008	\$640,000.00
19	March 3, 2008	\$1,064,000.00
20	April 1, 2008	\$1,579,000.00
21	May 1, 2008	\$1,343,000.00
22	June 2, 2008	\$1,035,000.00
23	July 1, 2008	\$1,125,000.00
24	August 1, 2008	\$475,000.00
25	September 2, 2008	\$615,000.00
26	October 7, 2008	\$1,100,000.00

Count 27

43. In about September 2008, without FBBC's knowledge, defendant AGRIPROCESSORS received customer payments from its customer, C.M.P., in an

account other than the depository account. Defendant SHOLOM RUBASHKIN, on behalf of defendant AGRIPROCESSORS, delayed the deposit of those customer payments into the depository account. During the period of delay, defendant AGRIPROCESSORS used the money for its own benefit. Defendant RUBASHKIN, on behalf of defendant AGRIPROCESSORS, caused defendant AGRIPROCESSORS' books to inaccurately reflect that such payments had not been received, and caused false certifications to be sent to FBBC which inaccurately stated the inflated amount of defendant AGRIPROCESSORS' accounts receivable.

44. This was in violation of Title 18, United States Code, Section 1344.

COUNTS 28 through 69

False Statements and Reports to a Bank

(Agriprocessors, Inc. and Sholom Rubashkin)

45. The introductory allegations of this Indictment, the Manner and Means allegations from Count 1, the Overt Acts alleged in Count 3, and the Scheme to Defraud allegations from Counts 13 through 26, are realleged as if fully set forth herein.

46. Beginning on a date unknown to the grand jury and continuing through about October 2008, in the Northern District of Iowa and elsewhere, defendants AGRIPROCESSORS and SHOLOM RUBASHKIN knowingly made false statements and reports, and willfully overvalued property and security, for the purpose of influencing the actions of First Bank and FBBC in connection with advances on a revolving loan, as follows:

Counts 28 through 41

47. On or about the dates identified in the following table, defendant SHOLOM RUBASHKIN, on behalf of defendant AGRIPROCESSORS, caused false certifications to be sent to FBBC. The false certifications stated that defendant AGRIPROCESSORS' representations and warranties stated in the loan agreement were true as of the certification dates. In fact, as defendant RUBASHKIN then knew, the representations and warranties were not true as of the certification dates because: (a) defendant AGRIPROCESSORS was knowingly employing and conspiring to employ illegal workers in violation of law and regulations; and (b) accounts listed on Collateral Certificates submitted by defendant AGRIPROCESSORS were not genuine (or were subject to offsets, counterclaims or material disputes).

Count	Date
28	September 4, 2007
29	October 1, 2007
30	November 1, 2007
31	December 3, 2007
32	January 2, 2008
33	February 1, 2008
34	March 3, 2008
35	April 1, 2008
36	May 1, 2008
37	June 2, 2008
38	July 1, 2008
39	August 1, 2008

40	September 2, 2008
41	October 7, 2008

Count 42

48. In about the middle of May 2008, and shortly after the May 12, 2008, ICE worksite enforcement action, defendant SHOLOM RUBASHKIN, on behalf of defendant AGRIPROCESSORS, and in an effort to convince FBBC to continue to advance money on the revolving loan, made a false statement to representatives of FBBC. That is, defendant RUBASHKIN falsely stated that, during the time period leading up to the arrests of approximately 389 undocumented alien workers at defendant AGRIPROCESSORS on May 12, 2008, defendant RUBASHKIN had been unaware that such alien workers were undocumented. In fact, as defendant RUBASHKIN then knew, defendant RUBASHKIN had been aware that such alien workers were undocumented during the time period leading up to their arrests.

Counts 43 through 69

49. On or about the dates identified in the following table, defendant SHOLOM RUBASHKIN, on behalf of defendant AGRIPROCESSORS, caused false reports to be made to FBBC. The false reports consisted of monthly financial reports which overstated amounts owed to AGRIPROCESSORS by the customers, for the time periods, and in the amounts identified in the following table. In fact, as defendant RUBASHKIN then knew, AGRIPROCESSORS was not so owed:

Count	Date	Time Period	Customer	Amount
43	On or about February 29, 2008	As of January 25, 2008	a Los Angeles wholesaler (C.G.M.)	\$1,217,961.02
44	On or about February 29, 2008	As of January 25, 2008	a St. Paul hide company (T.C.H.)	\$617,301.95
45	On or about February 29, 2008	As of January 25, 2008	a South St. Paul manufacturing company (V.H.)	\$704,042.14
46	On or about March 27, 2008	As of February 29, 2008	a Los Angeles wholesaler (C.G.M.)	\$1,140,107.48
47	On or about March 27, 2008	As of February 29, 2008	a St. Paul hide company (T.C.H.)	\$941,763.00
48	On or about March 27, 2008	As of February 29, 2008	a South St. Paul manufacturing company (V.H.)	\$951,679.19
49	On or about April 18, 2008	As of March 28, 2008	a Los Angeles wholesaler (C.G.M.)	\$1,145,873.54
50	On or about April 18, 2008	As of March 28, 2008	a St. Paul hide company (T.C.H.)	\$521,013.00
51	On or about April 18, 2008	As of March 28, 2008	a South St. Paul manufacturing company (V.H.)	\$627,244.00
52	On or about May 20, 2008	As of April 25, 2008	a Los Angeles wholesaler (C.G.M.)	\$1,301,853.77

53	On or about May 20, 2008	As of April 25, 2008	a St. Paul hide company (T.C.H.)	\$983,317.75
54	On or about May 20, 2008	As of April 25, 2008	a South St. Paul manufacturing company (V.H.)	\$854,911.31
55	On or about July 2, 2008	As of May 30, 2008	a Los Angeles wholesaler (C.G.M.)	\$1,308,367.19
56	On or about July 2, 2008	As of May 30, 2008	a St. Paul hide company (T.C.H.)	\$1,172,194.63
57	On or about July 2, 2008	As of May 30, 2008	a South St. Paul manufacturing company (V.H.)	\$924,838.05
58	On or about July or August, 2008	As of June 27, 2008	a Los Angeles wholesaler (C.G.M.)	\$1,380,244.72
59	On or about July or August, 2008	As of June 27, 2008	a St. Paul hide company (T.C.H.)	\$1,076,961.12
60	On or about July or August, 2008	As of June 27, 2008	a South St. Paul manufacturing company (V.H.)	\$799,429.18
61	On or about September 3, 2008	As of July 25, 2008	a Los Angeles wholesaler (C.G.M.)	\$1,162,035.79
62	On or about September 3, 2008	As of July 25, 2008	a St. Paul hide company (T.C.H.)	\$787,025.60

63	On or about September 3, 2008	As of July 25, 2008	a South St. Paul manufacturing company (V.H.)	\$893,308.26
64	On or about September or October, 2008	As of August 29, 2008	a Los Angeles wholesaler (C.G.M.)	\$1,208,596.73
65	On or about September or October, 2008	As of August 29, 2008	a St. Paul hide company (T.C.H.)	\$1,113,035.19
66	On or about September or October, 2008	As of August 29, 2008	a South St. Paul manufacturing company (V.H.)	\$1,176,335.70
67	On or about October 2008	As of September 26, 2008	a Los Angeles wholesaler (C.G.M.)	\$1,502,701.61
68	On or about October 2008	As of September 26, 2008	a St. Paul hide company (T.C.H.)	\$993,038.79
69	On or about October 2008	As of September 26, 2008	a South St. Paul manufacturing company (V.H.)	\$912,136.38

50. This was in violation of Title 18, United States Code, Section 1014.

COUNTS 70 through 79

Money Laundering

(Agriprocessors, Inc. and Sholom Rubashkin)

51. The introductory allegations of this Indictment, the Manner and Means allegations from Count 1, the Overt Acts alleged in Count 3, and the Scheme to Defraud allegations from Counts 13 through 26, are realleged as if fully set forth herein.

52. Beginning on a date unknown to the grand jury, and continuing through about October 2008, in the Northern District of Iowa and elsewhere, defendants AGRIPROCESSORS and SHOLOM RUBASHKIN did knowingly conduct and aid and abet others in conducting financial transactions which involved the proceeds of a specified unlawful activity (bank fraud in violation of Title 18, United States Code, Section 1344; making false statements and reports to a bank in violation of Title 18, United States Code, Section 1014; and harboring undocumented aliens and conspiracy to harbor in violation of Title 8, United States Code, Sections 1324(a) *et seq.*) with the intent to promote the carrying on of specified unlawful activity, and knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity.

53. On or about the dates set forth below, defendants SHOLOM RUBASHKIN and AGRIPROCESSORS did knowingly conduct and aid and abet others in conducting such financial transactions by causing checks from third party entities to be deposited

into the depository account at Decorah Bank and Trust Company as described in the following table:

Count	Date	Third Party Entity	Check Numbers and Amounts
70	August 9, 2007	Kosher Community	2371 \$42,240.86 2372 \$48,685.03
71	September 19, 2007	Torah Education	3274 \$38,464.92 3299 \$18,768.46
72	October 17, 2007	Kosher Community	2506 \$41,066.57 2507 \$42,525.56
73	November 14, 2007	Torah Education	3344 \$32,300.86 3349 \$35,362.44
74	December 11, 2007	Kosher Community	2744 \$42,899.56 2745 \$43,888.99 2746 \$38,848.92
75	January 15, 2008	Torah Education	3377 \$93,589.26 3378 \$34,897.55 3379 \$32,586.58
76	February 26, 2008	Kosher Community	3069 \$78,890.14 3070 \$88,593.45 3071 \$79,222.48 3072 \$88,259.26
77	March 18, 2008	Torah Education	3365 \$48,660.88 3366 \$38,982.46
78	April 15, 2008	Torah Education	3632 \$78,888.56 3668 \$78,458.55 3692 \$98,458.48
79	May 13, 2008	Torah Education	3435 \$88,958.26 3436 \$59,158.25 3437 \$97,859.28 3438 \$60,259.36

54. This was in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(i), 1956(a)(1)(B)(i) and Section 2.

COUNTS 80 through 99

Willful Violation of Order of Secretary of Agriculture

(Agriprocessors, Inc. and Sholom Rubashkin)

55. The introductory allegations of this Indictment are realleged as if fully set forth herein.

56. Beginning no later than about February 2008, and continuing through about April 2008, in the Northern District of Iowa and elsewhere, defendants AGRIPROCESSORS, INC. and SHOLOM RUBASHKIN did willfully fail to obey, and did aid and abet the failure to obey, an order of the United States Secretary of Agriculture issued under Title 7, United States Code, Section 193, that is, an order issued March 7, 2002, to defendant AGRIPROCESSORS, INC. and its agents and employees to cease and desist from:

- (A) failing to pay, when due, the full purchase price of livestock as required by law; and
- (B) failing to deposit checks issued in payment for livestock in the mail before the close of the next business day after the purchase of such livestock as required by law.

57. On or about the dates set forth below, defendants SHOLOM RUBASHKIN and AGRIPROCESSORS, INC. willfully violated the order, and aided and abetted violations of the order, in the manner described in the following table:

Count	Vendor	Purchase/ Harvest Date	Due Date	Payment	Amount
80	Waukon Iowa Cattle Supplier	February 4, 2008	February 5, 2008	postage date February 8, 2008	\$38,207.54
81	Chicago Cattle Supplier	February 11, 2008	February 12, 2008	check dated February 15, 2008	\$96,497.88
82	Marshalltown Iowa Cattle Supplier	February 13, 2008	February 14, 2008	check dated February 25, 2008	\$47,219.00
83	Minnesota Cattle Supplier	February 14, 2008	February 15, 2008	check dated February 25, 2008	\$91,698.55
84	Waukon Iowa Cattle Supplier	February 14, 2008	February 15, 2008	postage date February 19, 2008	\$99,435.10
85	Walnut Illinois Cattle Supplier	February 14, 2008	February 15, 2008	check dated February 19, 2008	\$90,076.74
86	Waukon Iowa Cattle Supplier	February 21, 2008	February 22, 2008	postage date February 26, 2008	\$71,465.27
87	Waukon Iowa Cattle Supplier	February 27, 2008	February 28, 2008	postage date March 4, 2008	\$76,937.72
88	Waukon Iowa Cattle Supplier	February 28, 2008	February 29, 2008	postage date March 4, 2008	\$88,698.48
89	Aplington Iowa Cattle Supplier	March 4, 2008	March 5, 2008	check dated March 7, 2008	\$47,938.32
90	Ledyard Iowa Cattle Supplier	March 4, 2008	March 5, 2008	check dated March 7, 2008	\$49,627.02
91	Ames Iowa Cattle Supplier	March 4, 2008	March 5, 2008	check dated March 7, 2008	\$14,113.50
92	Waverly Iowa Cattle Supplier	March 4, 2008	March 5, 2008	check dated March 7, 2008	\$189,987.73

93	Waukon Iowa Cattle Supplier	March 20, 2008	March 21, 2008	via hand delivery on March 25, 2008	\$93,680.45
94	Waukon Iowa Cattle Supplier	March 27, 2008	March 28, 2008	via hand delivery on April 2, 2008	\$149,214.77
95	Aplington Iowa Cattle Supplier	March 28, 2008	March 29, 2008	check dated April 2, 2008	\$7,371.60
96	Waukon Iowa Cattle Supplier	March 31, 2008	April 1, 2008	via hand delivery on April 5, 2008	\$43,871.28
97	Waukon Iowa Cattle Supplier	April 3, 2008	April 4, 2008	via hand delivery on April 9, 2008	\$77,170.06
98	Waverly Iowa Cattle Supplier	April 8, 2008	April 9, 2008	via hand delivery on April 11, 2008	\$112,657.10
99	Waverly Iowa Cattle Supplier	April 15, 2008	April 16, 2008	via UPS overnight on April 21, 2008	\$48,727.51

58. This was in violation of Title 7, United States Code, Section 195 and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION

59. Upon conviction of one or more of the offenses alleged in Counts 1 and 2 of this Indictment, defendants AGRIPROCESSORS, INC., SHOLOM RUBASHKIN, BRENT BEEBE, HOSAM AMARA, and ZEEV LEVI shall forfeit to the United States the proceeds and gross proceeds of such violations, and any property traceable to such proceeds, and any property, real or personal, that was used to facilitate, or was

intended to facilitate, the commission of the offenses of which the defendants are convicted, including but not limited to the following:

- a. the corporate name "Agriprocessors, Inc.";
- b. any and all trademarks of Agriprocessors, Inc., including but not limited to: Iowa Best Beef (registration number 2679189); Shor Habor (registration number 2036953); Aaron's Best (registration number 2029970); and Rubashkin (registration number 2031920); and
- c. any and all corporate stock of Agriprocessors, Inc.

60. All pursuant to Title 8, United States Code, Section 1324(b), Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 982(a)(6)(A).

A TRUE BILL

/s/ Foreperson

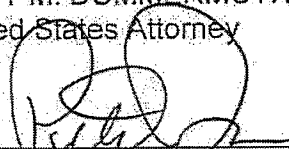
FOREPERSON

Date

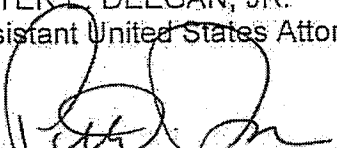
1/15/09

MATT M. DUMMERMUTH
United States Attorney

By:



PETER E. DEEGAN, JR.
Assistant United States Attorney

for 

MATTHEW J. COLE
Assistant United States Attorney

for 

C.J. WILLIAMS
Assistant United States Attorney