

KAREN L. LOEFFLER
United States Attorney

JACK S. SCHMIDT
Assistant U.S. Attorney
Federal Building & U.S. Courthouse
709 W. 9th St., Room 937
P.O. Box 21627
Juneau, AK 99802
Phone: (907) 796-0400
Fax: (907) 796-0409
Email: jack.schmidt@usdoj.gov

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,) No.
)
Plaintiff,) <u>COUNT 1 and 2:</u>
)
vs.) MISREPRESENTATION OF INDIAN
) PRODUCED GOODS
NORMA M. CARANDANG d.b.a.) Vio. 18 U.S.C. §§1159(a) and
NORTHSTAR GIFT SHOP,) (b)(1)(B)(i)
)
Defendant.)

I N F O R M A T I O N

The United States Attorney charges that:

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GENERAL ALLEGATIONS

At all times relevant to this Information:

1. NORMA M. CARANDANG was the owner and operator of NORTHSTAR GIFT SHOP located in Juneau, Alaska.
2. NORTHSTAR GIFT SHOP sold a wide range of gift items including carvings and handicrafts. Some of the products sold were made by Alaska Native artists and other items sold were crafted based upon traditional Alaska Native designs or styles, but were not made by Alaska Natives or members of any American Indian tribe.

INDIAN ARTS AND CRAFTS ACT

3. The Indian Arts and Crafts Act (IACA) makes it unlawful to offer, display for sale, or sell any good in a manner that falsely suggest that it was Indian produced, an Indian product, or the product of a particular Indian tribe, resident in the United States. 18 U.S.C 1159(a).

4. Congress adopted the IACA as a truth-in-marketing law with the purpose of requiring those who produce and market art and craft work to honestly represent and clarify the degree of Indian involvement in the production of the art and craft work when it is sold, displayed, or offered for sale. 25 C.F.R 309.7

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5. Under the IACA, an “Indian” means any individual who is a member of an Indian tribe or certified by an Indian tribe as a non-member Indian artisan.

18 U.S.C. 1159(c)(1) and 25 C.F.R. 309.2 (a). An “Indian artisan” means an individual who is certified by an Indian tribe as a non-member Indian artisan.

25 C.F.R. 309.2 (b). An “Indian product” means any art or craft made by an Indian.

The term “made by an Indian” means that an Indian has provided the artistic or craft work labor necessary to implement an artistic design through a substantial

transformation of materials to produce the art or craft work. This may include more than one Indian working together, however, the labor component of the product

must be entirely Indian for the Indian art or craft object to be an “Indian product.”

25 C.F.R. 309.2 (d). “Indian products” include, but is not limited to art made by an

Indian in a traditional or non-traditional style or medium, craft work made by an

Indian in a traditional or non-traditional style or medium, or a handicraft made by an

Indian. 25 C.F.R. 309.2 (2)(i-iii).

6. The following are not considered “Indian product”: a product in the style of an Indian art or craft product or designed by an Indian but produced by non-Indian labor; a product in the style of an Indian product assembled from a kit; a product originating from a commercial product, without substantial transformation by Indian artistic or craft work labor; Industrial products that have an exclusively

functional purpose which do not serve do not serve as a traditional artistic medium and do not lend themselves to an Indian embellishment; a product in the style of an Indian art and craft product that is produced in an assembly line or related production line using multiple workers not all whom are Indians. 25 C.F.R. 309.2 (3)(i-vi).

7. An “Indian tribe” means any Indian tribe, band, nation, Alaska Native village, or organized group or community which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians; or any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a state commission or similar organization legislatively vested with state tribal recognition authority. 25 C.F.R. 309.2 (e)(1)(2); see also 25 U.S.C. 405(b) and 43 U.S.C. 1601 et seq.

CUSTOMER COMPLAINT

8. Beginning in August 2015, an U.S. Fish and Wildlife Service (USFWS) agent investigated a complaint posted by customers on the NORTHSTAR GIFT SHOP Facebook webpage stating that NORMA M. CARANDANG had falsely represented that a bone carving they examined for sale at NORTHSTAR GIFT SHOP and ultimately purchased for \$799 was made by an Alaskan Eskimo.

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The USFWS interviewed the customers who were tourists from out-of-state and the customers reported they had purchased the carving on May 30, 2014, and had been promised that they would receive a certificate of authenticity confirming that it was made by an Alaskan Eskimo when the carving was mailed to them.

9. The customers reported that when they received the carving in the mail it did not come with a certificate. The customers called NORMA M. CARANDANG several times about the missing certificate of authenticity and subsequently received a certificate indicating that the carving was made by an “Alaskan Artist.” Contrary to what the customers had been told when they purchased the carving, the certificate did not indicate that it was made by an Alaskan Eskimo.

10. The artist who made the carving these customers purchased lives and works in Alaska, but is not an Alaska Native or a member of any American Indian tribe.

USFWS INVESTIGATION

11. On June 29, 2015, an USFWS undercover agent entered into the NORTHSTAR GIFT SHOP and contacted NORMA M. CARANDANG and asked her about a bone carving that the agent knew was made by an artist who is not an Alaska Native or member of any American Indian tribe.

NORMA M. CARANDANG falsely represented that the bone carving was made by an individual from the “Tlingit, Haida” tribe. The agent subsequently purchased the bone carving for \$976.50 and confirmed that it was made by an artist who was not an Alaska Native or American Indian.

12. On August 28, 2015, the USFWS undercover agent emailed NORMA M. CARANDANG and asked her about several large bone sculptures listed for sale on her NORTHSTAR GIFT SHOP website. NORMA M. CARANDANG subsequently sent a text messages to the agent that falsely represented that the artist who made the bone sculptures was from the “Raven” or “Haida” tribe.

13. The artist who made the bone sculptures lives and works in Alaska but is not an Alaska Native or member of any American Indian tribe.

14. On September 23, 2015, two USFWS agents contacted NORMA M. CARANDANG. The two USFWS agents identified themselves as USFWS agents and asked NORMA M. CARANDANG if she knew that the particular artist who carved the bone sculptures sold on May 30, 2014 and June 29, 2015, was Alaska Native. NORMA M. CARANDANG told the agents that the artist “is not native, he’s just Alaskan.” NORMA M. CARANDANG also stated that she knew the artist for over 25 years and denied that she ever identified the artist as Eskimo or Indian to any customers shopping at the NORTHSTAR GIFT SHOP.

COUNT 1

15. Paragraphs 1-10 and 14 are re-alleged and incorporated herein.

16. On or about May 30, 2014, the defendant, NORMA M.

CARANDANG, doing business as NORTHSTAR GIFT SHOP, within the District of Alaska, did knowingly offer and display for sale and sell goods, specifically a bone carving that was not made by an Alaska Native, in a manner that falsely suggested these goods as being Indian produced and Indian products, in particular that they were authentic Alaska Native handicrafts, knowing that they were not.

All of which is in violation of Title 18, United States Code, §§1159 (a) and (b)(1)(B)(i).

COUNT 2

17. Paragraphs 1-14 are re-alleged and incorporated herein.

18. On or about June 29, 2015, the defendant, NORMA M.

CARANDANG, doing business as NORTHSTAR GIFT SHOP, within the District of Alaska, did knowingly offer and display for sale and sell goods, specifically a bone carving that was not made by an Alaska Native, in a manner that falsely suggested these goods as being Indian produced and Indian products, in particular that they were authentic Alaska Native handicrafts, knowing that they were not.

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All of which is in violation of Title 18, United States Code, §§1159(a) and (b)(1)(B)(i).

RESPECTFULLY submitted on this 3rd day of March, 2016, at Juneau, Alaska.

KAREN L. LOEFFLER
United States Attorney

s/Jack S. Schmidt
JACK S. SCHMIDT
Assistant U.S. Attorney
United States of America