Environmental Crimes Case Bulletin

U.S. Environmental Protection Agency
Office of Criminal Enforcement, Forensics and Training

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This bulletin summarizes publicized investigative activity and adjudicated cases conducted by OCEFT Criminal Investigation Division special agents, forensic specialists, and legal support staff.

Defendants in this edition:

- **Tonawanda Coke Corporation, Mark L. Kamholz — Region 2**
- **David Ector — Region 3**
- **FSD Group, LLC — Region 4**
- **Mark Jeffery Glover, Discount Computers, Inc. — Region 5**
- **Nghiem Van Tran, Nghi Cong Tran, Ngan Tien Tran, Dahn Cong Tran, Bich Dong Ngo, Huy Ngoc Nguyen — Region 6**
- **Jeffrey David Gunselman — Region 6**
- **Norman Teltow — Region 8**
- **John Albert Paquette, East Point, LLC — Region 8**
- **Bret A. Simpson — Region 10**

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 2	Tonawanda Coke Corporation, Mark L. Kamholz	CAA/RCRA/Illegal release of benzene into air and illegal storage, treatment, and disposal of hazardous waste; obstruction of justice
Region 3	David Ector	CWA/Illegal discharge of fill material without a permit
Region 4	FSD Group, LLC	CAA/Illegal receipt, purchase, and sale of ozone-depleting refrigerant gas that had been smuggled into the United States
Region 5	Mark Jeffrey Glover, Discount Computers, Inc.	RCRA/Trafficking in counterfeit goods and services; storing and disposing of hazardous waste without a permit

DEFENDANT SUMMARY:

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Region 6	Nghiem Van Tran, Nghi Cong Tran, Ngan Tien Tran, Dahn Cong Tran, Bich Dong Ngo, Huy Ngoc Nguyen	CAA/Falsifying state emissions test results
Region 6	Jeffrey David Gunselman	CAA/Wire fraud, money laundering and false statements
Region 8	John Albert Paquette, East Point, LLC	CWA/Illegally discharging sewage into reservoir
Region 8	Norman Teltow	RCRA/Illegally treating hazardous waste
Region 10	Bret A. Simpson	CAA/Failing to report a discharge of oil, and unlawfully discharging oil into the Columbia River

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Sentencings *(Back to Quick Links)*

International Heating and Cooling Product Distributor Sentenced for Illegal Purchase and Sale of Smuggled Ozone-Depleting Refrigerant Gas -- On March 5, 2013, **FSD GROUP, LLC,** a Florida corporation headquartered in Miami, was convicted in federal district court for the Southern District of Florida and sentenced in connection with the illegal receipt, purchase, and sale of ozone-depleting refrigerant gas that had been smuggled into the United States contrary to the Clean Air Act.

FSD Group pled guilty to a one count Information for knowingly receiving, buying, selling and facilitating the transportation, concealment, and sale of approximately 65,592 kilograms of the ozone-depleting substance hydrochlorofluorocarbon -22 ("HCFC-22") which had been illegally smuggled into the United States contrary to the Clean Air Act. HCFC-22 is a refrigerant in widespread use for residential heat pump and air-conditioning systems.

Immediately following the guilty plea, FSD Group was sentenced to three years of probation and ordered to pay a $100,000 criminal fine. As a special condition of probation, FSD Group was ordered to implement and enforce a comprehensive Environmental Compliance Plan. FSD Group was also ordered to forfeit to the United States $180,051, a sum representing proceeds received as a result of the crime, and to pay duties owed to the United States Customs and Border Protection for incorrectly classified merchandise.

The Federal Clean Air Act regulates air pollutants including ozone depleting substances such as HCFC-22. The Clean Air Act and its implementing regulations established a schedule to phase out the production and importation of ozone-depleting substances beginning in 2002, with a complete ban starting in 2030. To meet its obligations under an international treaty to reduce its consumption of ozone-depleting substances, the United States issued baseline allowances for the production and importation of HCFC-22 to individuals and companies. In order to legally import HCFC-22, you must hold an unexpended consumption allowance.

According to court records, FSD Group, which also operates under the name Saez Distributors, is an international supplier and distributor of merchandise used for heating, ventilation, air conditioning, and refrigerator systems, including ozone-depleting substances. FSD is an original allowance holder under the Clean Air Act, therefore, they have extensive knowledge regarding the Act's rules and prohibition involving the purchasing and illegal importation of HCFC-22. During the course of the illegal conduct and in addition to its legal imports, FSD Group made purchases of HCFC-22 from various importers, knowing they did not hold the required unexpended consumption allowances, totaling approximately 65,592 kilograms of restricted HCFC-22, with a fair market value of approximately $733,096.

This matter and others involving the smuggling and distribution of ozone-depleting substances are being investigated through a multi-agency initiative known as Operation Catch-22. Operation Catch-22 has been successful in obtaining convictions of nearly a dozen individuals and corporations at every level of the refrigerant gas smuggling and distribution chain.

This case was investigated by EPA's Criminal Investigation Division, ICE-HSI, the Florida Department of Environmental Protection, Criminal Investigation Bureau, and the Miami-Dade Police Department. It was prosecuted by Special Assistant U.S. Attorney Jodi A. Mazer.

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Illegally smuggled HCFC-22

Maryland Man Sentenced After Pleading Guilty to Illegally Dumping Fill Material into the Chesapeake Bay -- On March 13, 2013, **DAVID ECTOR**, of Lusby, Maryland, was sentenced in federal district court for the District of Maryland to two years probation after he pleaded guilty to discharging fill material into the Chesapeake Bay without a permit, in violation of the Clean Water Act. As a special condition of his sentence, Ector was ordered to remove, at his own expense, all fill material discharged into the Chesapeake Bay.

According to his plea agreement, Ector owned a cliff-front property in Calvert County. From May 28 through May 30, 2010, Ector caused large rocks (rip rap) to be dumped over the cliff-face. Ector did not obtain a permit to put the rocks into the Chesapeake Bay, as required by the Clean Water Act. The rip rap also scraped away soil on the cliff-face as it slid down the slope, interfering with the critical habitat of an endangered species.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Fish and Wildlife Service, Office of Law Enforcement. It was prosecuted by Assistant U.S. Attorney David I. Salem.

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Large rocks illegally dumped into Chesapeake Bay by Ector

Michigan Computer Company Owner Sentenced for International Environmental, Counterfeiting Crimes -- On March 25, 2013, **MARK JEFFREY GLOVER** was sentenced in federal district court for the Eastern District of Michigan to 30 months in prison and a $10,000 fine. His company, **DISCOUNT COMPUTERS, INC. (DCI)**, was fined 2 million dollars, including $10,839 in restitution to Michigan landlord, for trafficking in counterfeit goods and services. DCI was also sentenced for storing and disposing of hazardous waste without a permit. Glover pleaded guilty to the charges on his behalf and that of his company in October 2012.

Used CRT monitors illegally abandoned by DCI in a warehouse in Missouri

DCI, headquartered in Canton, Michigan, with warehouses in Maryland Heights, Mo., and Dayton, N.J., operated as a broker of used electronic components, including computers and televisions. DCI resold working and disassembled broken items, selling them for scrap. A large part of DCI's business involved exporting used cathode ray tube (CRT) monitors to countries in the Middle East and Asia.

Egypt prohibits the importation of computer equipment more than five years old. To evade this, all three DCI locations replaced the original factory labels on used CRT monitors with counterfeit labels, which reflected a more recent manufacture date. Over a five-year period, DCI sent at least 300 shipments to Egypt, with a total shipment value of at least $2.1 million, constituting more than 100,000 used CRTs monitors.

Under federal law it is illegal to knowingly use a counterfeit mark on or in connection with goods and services for the purpose of deceit or confusion. It is also illegal to store and dispose of hazardous waste, which includes certain electronic waste, or e-waste, without a permit. Glass from older CRT monitors is known to contain levels of lead, a known toxic hazardous waste. When deposited in landfills, the lead can leach out and contaminate drinking water supplies.

Counterfeit trademarked labels used by Glover and DCI to reflect a more recent manufacture date on used CRT monitors

These CRT monitors are required to be disposed of as hazardous waste under the Resource Conservation and Recovery Act. By exporting older CRTs with fraudulent manufacture dates, Mark Jeffrey Glover sent a large quantity of older e-waste overseas, thus subjecting it to improper recycling, increasing the potential for environmental and human exposure to hazardous materials.

E-waste disposal is a global concern. Used electronic equipment contains more than 1,000 different substances, including toxic heavy metals and organics that, if disposed of improperly, can cause significant pollution problems. Improper e-waste disposal is common in third world and developing countries because they are ill equipped to conduct safe, appropriate recycling, refurbishing, and disposal. It is also common in these countries to find black-market recycling groups that extract valuable metals from e-waste without regard for the safety of their impoverished employees who are exposed directly to toxic materials.

This case was investigated by EPA's Criminal Investigation Division and U.S. Department of Homeland Security–Homeland Security Investigations, Detroit. It was prosecuted by the U.S. Attorney's Office in the Eastern District of Michigan by Assistant U.S. Attorney Jennifer Blackwell.

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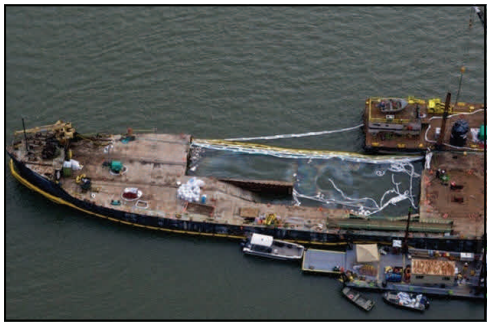
Washington Barge Owner Sentenced for Clean Water Act Violations for Oil Spill On Columbia River -- On March 18, 2013, **BRET A. SIMPSON**, of Ellensburg, Washington, the owner of Principle Metals, LLC, was sentenced in federal district court for the Western District of Washington to four months in prison, eight months of home detention, 100 hours of community service and three years of supervised release. Simpson was responsible for a $22- million- oil- clean up and salvage operation on the Columbia River. He had pleaded guilty in July 2012 to two criminal violations of the Clean Water Act; failing to report a discharge of oil, and unlawfully discharging oil into the Columbia River near Camas, Washington.

Aerial view of the M/V Davy Crockett surrounded by a cofferdam and dismantled in place.

With his guilty plea, Simpson admitted that he was informed about oil left on the 'Davy Crockett' barge before salvage operations began. However, Simpson failed to have the oil removed before workers started cutting up the metal barge. When the first oil spill occurred in early December 2010, Simpson failed to notify authorities and failed to take adequate steps to monitor the vessel or protect it from natural forces and further structural damage. Subsequent spills in January 2011 led U.S. Coast Guard investigators to identify the 'Davy Crockett' as the source and initiate a federally funded cleanup effort. Ultimately the U.S. Coast Guard and state authorities spent eight months and approximately $22 million to clean up the spill and remove the derelict barge from the river.



The *M/V Davy Crockett* is a former U.S. Navy ship that had been converted to a flat deck barge. Simpson's company planned to cut the barge apart and sell the metal for scrap. Simpson assembled a crew to begin dismantling the *M/V Davy Crockett* at its place of moorage in the Columbia River in October 2010. He made no arrangements to remove the fuel oil and diesel fuel from the vessel before the scrapping operation began. On December 1, 2010, a member of the scrapping crew cut into a structural beam of the barge, and the ship began breaking apart and leaking oil. Neither Simpson nor anyone else with Principle Metals LLC notified authorities about the leak. The scrapping operation was halted.

Simpson initially addressed the oil release by ceasing all scrapping operations, procuring a boom to limit the release of oil into the Columbia River, and directing an employee to monitor vessel conditions. The employee monitored vessel conditions for approximately one week following the initial release before being relieved of his employment. Simpson took no further steps to monitor the ship, or the boom, and took no steps to protect the barge from further structural damage. On January 19, 2011, an accumulation of debris next to the barge forced it to move, and additional oil was released. The Coast Guard responded to the additional movement of the barge, and issued an administrative order for Simpson to remove any remaining visible oil from machinery spaces and deck tubes together with other salvage debris from the vessel. Simpson complied and authorities believed the barge no longer posed an environmental danger. However on January 27, 2011, additional oil was released from the vessel and state and federal authorities immediately responded in an effort to limit environmental damage.

The case was investigated by EPA's Criminal Investigation Division, the U.S. Coast Guard, the U.S. Coast Guard Investigative Service, the Washington State Department of Ecology, and the Oregon Department of Environmental Quality. The case is being prosecuted by Assistant United States Attorney James Oesterle and Special Assistant United States Attorney Lieutenant Commander Marianne Gelakoska of the U.S. Coast Guard.

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Bio-diesel Fuel Company Owner Sentenced to 188 Months in Federal Prison on Wire Fraud, Money Laundering and False Statements Convictions -- On March 29, 2013, **JEFFERY DAVID GUNSELMAN** was sentenced in federal district court for the Northern District of Texas to 188 months in federal prison, fined $175,000 and ordered to pay $54,973,137 in restitution, following his guilty plea in December 2012 to an indictment charging 51 counts of wire fraud, 24 counts of money laundering and four counts of making false statements in violation of the Clean Air Act. Gunselman has been in custody since July 2012.

Gunselman was the owner of Absolute Fuels, LLC, dba Absolute Fuels, LLC (Absolute Fuels), which he formed in April 2009. He was also named as Governing Person and/or as Registered Agent for other business entities associated with Absolute Fuels, LLC, including Absolute Fuels, LLC; Absolute Milling, LLC; Ellipse Energy, LLC; 21 Investments, LLC; and YGOG Holdings, LLC. However, Gunselman admitted that these entities are solely alter egos of himself, as an individual, as he alone owns, manages, directs and controls each of them and each has no separate and distinct existence from him.

Gunselman admitted that from September 2010 to October 2011, he devised a scheme to defraud the Environmental Protection Agency by falsely representing that he was in the business of producing bio-diesel fuel, yet Gunselman did not have a bio-diesel fuel-producing facility. Instead, Gunselman's business operation consisted of falsely generating renewable fuel credits and selling them to oil companies and brokers. He instructed purchasers to wire payments to a bank account he solely controlled, and as a result, approximately $41,762,236 was deposited into that account.

From September 2010 to mid-October 2011, Gunselman conducted 51 fraudulent transactions, which were transmitted by wire communications, that represented to the EPA that bio-diesel fuel had been produced at the Absolute Fuels facility in Anton, Texas, when in fact, no bio-diesel fuel had been produced. This ultimately resulted in Gunselman requesting and receiving payments, by electronic funds transfer, of approximately $41,762,236.

Regarding the money laundering convictions, during the same time period, Gunselman engaged in monetary transactions in criminally derived property by purchasing real and personal property valued at approximately $12 million with the funds derived from the wire fraud. Included in that property are: several vehicles, including a Bentley, Mercedes-Benz, Lexus, Cadillac and Shelby Cobra; a Patton Military Tank; a Gulfstream airplane, professional basketball season tickets and corporate sponsorship; and agricultural, business and residential real estate.

The false statements convictions stem from Gunselman making material false statements to the EPA, falsely claiming and representing that bio-diesel fuel, a renewable fuel, had been produced, generating renewable fuel credits, when Gunselman well knew that no bio-diesel fuel had been produced.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Secret Service. It was prosecuted by Assistant U.S. Attorneys Paulina Jacobo and Justin Cunningham, of the U.S. Attorney's Office in Lubbock. Assistant U.S. Attorney John J. de la Garza handled the forfeiture.

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Six Texas Emissions Inspectors Sentenced for Falsifying State Emissions Test Results -- On March 19, 2013, six residents of Arlington, Texas, who pleaded guilty to their respective roles in falsifying Texas state emissions tests at two state-certified inspections stations in Arlington, were sentenced in federal district court for the Northern District of Texas, for falsifying Texas State emissions test results.

The Clean Air Act authorizes EPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and welfare, and to regulate emissions of hazardous air pollutants. Areas that exceed the NAAQS are known as "non-attainment areas." Depending on the amount of pollution that exceeds the standards, areas are classified as marginal, moderate, serious, severe or extreme. The North Texas Region that includes Dallas and Tarrant counties is classified as a "serious" non-attainment area by the EPA. Vehicles are required to pass annual inspections to ensure that their emissions do not exceed limits for hydrocarbons, nitrogen oxide and other compounds.

NGHIEM VAN TRAN and **NGHI CONG TRAN,** who each pleaded guilty to one count of conspiracy to violate the Clean Air Act, were sentenced 12 months and 15 months in federal prison respectively. In addition, **NGHIEM VAN TRAN** was ordered to pay a $5,000 fine and he pleaded guilty to one count of making a Clean Air Act false statement.

DAHN CONG TRAN, BICH DONG NGO, and **HUY NGOC NGUYEN** were each sentenced to 12 months of probation, following each of their guilty pleas to one count of making a Clean Air Act false statement. Danh Cong Tran's probation includes eight months of home confinement.

According to documents filed in the case, the inspection stations, including Mike's Autocare, and Tommy Tech, both located in Arlington, performed approximately 7,656 fraudulent emissions tests between August 2009 and March 2011. The defendants circumvented the required emissions testing procedures by substituting vehicles that would pass the emissions test in place of vehicles that had previously failed or showed equipment malfunctions. In most instances, the vehicle needing an emissions test was not present at Mike's or Tommy Tech when the emissions tests were conducted, and the defendants who conducted the fraudulent tests received the necessary identifying vehicle information from Nghiem Van Tran and Nghi Cong Tran via a text message or a handwritten slip of paper. The defendants generated fraudulent emissions certificates and transmitted fraudulent testing results to the Texas Information Management System (TIMS) database managed by the Texas Department of Public Safety.

The defendants demanded up to $80 for each fraudulent test, well above the state-mandated maximum charge of $39.75. Proceeds from the fraudulent emissions tests were deposited into a bank account for "Upland Investment," which was controlled by Nghiem Van Tran.

The case was investigated by EPA's Criminal Investigation Division and prosecuted by Assistant U.S. Attorney Stephen P. Fahey.

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New York Coke Maker and Environmental Control Manager Convicted of CAA and RCRA Crimes

Tonawanda Coke Corporation

Storage tank that was dismantled for scrap metal and released coal tar sludge material that tested positive for benzene

On March 28, 2013, **TONAWANDA COKE CORPORATION (TCC)** was convicted by a federal jury in federal district court for the Western District of New York of 11 counts of violating the Clean Air Act and three counts of violating the Resource Conservation and Recovery Act. In addition, Tonawanda Coke Environmental Control Manager, **MARK L. KAMHOLZ**, of West Seneca, N.Y., was found guilty of 11 counts of violating the Clean Air Act, one count of obstruction of justice and three counts of violating the Resource Conservation and Recovery Act. The charges carry a maximum combined penalty up to 75 years in prison and fines in excess of $200 million. Sentencing is scheduled for July 15, 2013.

The offenses related to the release of coke oven gas containing benzene into the air through an unreported pressure relief valve. In addition, a coke-quenching tower was operated without baffles, a pollution control device required by TCC's Title V Clean Air Act permit designed to reduce the particulate matter that is released into the air during coke quenches.

In addition, prior to an inspection conducted by EPA in April of 2009, Kamholz told another TCC employee to conceal the fact that the unreported pressure relief valve, during normal operations, emitted coke oven gas directly into the air, in violation of the TCC's operating permit. The defendants also stored, treated and disposed of hazardous waste without a permit to do so, in violation of the Resource Conservation and Recovery Act. These offenses related to TCC's practice of mixing its coal tar sludge, a listed hazardous waste that is toxic for benzene, on the ground in violation of hazardous waste regulations.

The case was investigated by EPA's Criminal Investigation Division and investigators of the New York State Department of Environmental Conservation Police.

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Coal tar concrete pad where decanter tank tar sludge (K087 - listed hazardous waste) should have been mixed with coal prior to placing the mixture into the coke oven battery

East Quench Tower that required the installation of baffles for particulate emission control per the Title V air permit

Owner of Colorado Aircraft Painting Company Pleads Guilty to Unlawfully Treating Hazardous Waste -- On March 12, 2013, **NORMAN TELTOW**, owner of Gold Metal Paint Co. LLC (GMP), pleaded guilty in federal district court in Denver to a criminal information charging him with illegally treating hazardous waste at the company's facility. Teltow, who will be sentenced on June 10, 2013, faces a maximum sentence of five years in prison, a $250,000 fine, and three years of supervised release.

Gold Metal Paint Co. stripper hangar showing methylene chloride stripper waste drain.

Teltow operated GMP out of a hangar near the Front Range Airport in Watkins, Colo. GMP was primarily in the business of painting small aircraft. During the course of its business, GMP created hazardous waste in the form of spent methylene chloride-based solvents mixed with paint waste. Methylene chloride, a listed hazardous waste, is both ignitable and toxic. Moreover, exposure to methylene chloride can cause skin irritation, headache, dizziness, nausea, and vomiting.

Under the Resource Conservation and Recovery Act, GMP was required to use a licensed waste management company to transport the hazardous waste to a licensed facility for disposal. To avoid the costs associated with proper disposal, Teltow directed GMP employees to store the spent solvents in an underground tank below the facility, knowing that it was illegal to store the waste in that manner.

When the Colorado Department of Public Health and Environment (CDPHE) became aware that Teltow and GMP were storing hazardous waste in an underground tank, the agency conducted an inspection and ordered Teltow to hire a licensed waste management company to pump the waste out of the tank and dispose of it properly. CDPHE further ordered that the tank be cleaned, that the trench drain leading to the underground tank be sealed, and that GMP use a licensed waste management company to transport all hazardous waste in the future. In response to CDPHE's orders, Teltow hired a licensed waste management company to pump out the tank, and sealed off the trench drain to the underground tank. However, rather than hire a licensed waste management company to clean out the tank, Teltow ordered subordinate employees to clean out the tank without the benefit of any personal protective equipment. The employees were exposed to hazardous waste containing methylene chloride, and suffered from headaches, dizziness, and nausea.

Teltow then devised a new plan for treating GMP's hazardous waste by "evaporating" it into the atmosphere. Teltow ordered subordinate GMP employees to pour the hazardous waste onto the floor of the hangar at the end of the work day. Workers would then leave the hangar doors ajar and allow the methylene-chloride waste to evaporate. Teltow knew that it was illegal to treat the hazardous waste in this manner. When Teltow's "evaporation" method was unsuccessful at treating all of the waste that GMP accumulated, Teltow drilled open the trench drain so that the waste could again flow into the underground tank.

The investigation was conducted by EPA's Criminal Investigation Division, with assistance from inspectors at the Occupational Safety and Health Administration and CDPHE. The case was prosecuted by James B. Nelson of the Department of Justice's Environmental Crimes Section.

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Colorado Man and His Business Charged with Illegally Discharging Sewage into Reservoir -- On March 20, 2013, **JOHN ALBERT PAQUETTE**, of Longmont, Colorado, and his company, **EAST POINT, LLC,** were charged by information in federal district court for the District of Colorado with knowingly discharging a pollutant without a permit from a point source into waters of the United States. According to the information, on June 20, 2012, Paquette and East Point, LLC, knowingly discharged 1,000 gallons of raw sewage from a hose into the Oligarchy Ditch, which flowed into the Union Reservoir, located in Longmont, Colorado.

If convicted, the company faces not more than five years probation, a fine of at least $5,000 and not more than $50,000 per day of violation. Paquette, if convicted, faces up to one year in prison and a fine of at least $2,500 and not more than $25,000 per day of violation.

The case is being investigated by EPA's Criminal Investigation Division. It is being prosecuted by Assistant U.S. Attorney Suneeta Hazra. The charges contained in the information are allegations, and the defendants are presumed innocent unless and until proven guilty.

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