

COMMITTEE ON NATURAL RESOURCES
113th Congress Disclosure Form
As required by and provided for in House Rule XI, clause 2(g) and
the Rules of the Committee on Natural Resources

Oversight hearing on the 2008 Lacey Act Amendments
Thursday, May 16, 2013

For Individuals:

1. Name: Marcus Asner
2. Address: [Information redacted for privacy]
3. Email Address: [Information redacted for privacy]
4. Phone Number: [Information redacted for privacy]

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For Witnesses Representing Organizations: N/A

1. Name:
2. Name of Organization(s) You are Representing at the Hearing:
3. Business Address:
4. Business Email Address:
5. Business Phone Number:

For all Witnesses

Mr. Marcus A. Asner

Subcommittee on FWO&IA Oversight hearing – Thursday, May 16, 2013

a. Any training or educational certificates, diplomas or degrees or other educational experiences that are relevant to your qualifications to testify on or knowledge of the subject matter of the hearing.

Education

- The University of Michigan Law School, J.D., *cum laude*, December 1992
- The University of Michigan Rackham Graduate School, M.S. in Mathematics, April 1987
- The University of Chicago, A.B. in Physics, with honors, June 1985

b. Any professional licenses, certifications, or affiliations held that are relevant to your qualifications to testify on or knowledge of the subject matter of the hearing.

- Admitted to practice law in the State of New York
- Admitted to practice before the United States District Court for the Southern District of New York; the United States Court of Appeals for the Second Circuit; the United States Court of Appeals for the Third Circuit; and the United States District Court for the Eastern District of Michigan

c. Any employment, occupation, ownership in a firm or business, or work-related experiences that relate to your qualifications to testify on or knowledge of the subject matter of the hearing.

Employment

- Arnold & Porter LLP (2009 to present) – Partner in the New York office of Arnold & Porter. Routinely advise companies and individuals on the Lacey Act, environmental matters, complex fraud matters, the Foreign Corrupt Practices Act, counterfeiting issues and other criminal matters.
- Assistant United States Attorney, Southern District of New York (2000-2009)
 - Chief of the Major Crimes Unit (now called Complex Frauds Unit) (2007-2009)
 - *United States v. Arnold Bengis et al.* – Headed investigation and prosecution of international scheme to smuggle into the United States illegally harvested Chilean sea bass and rock lobster in violation of the Lacey Act. Worked closely with South African authorities on parallel investigation and prosecutions. Five arrested in the United States; all pleaded guilty, and the main defendants were sentenced to significant terms of imprisonment. Recovered \$7.4 million in forfeiture. Successfully argued government appeal of district court's order denying restitution to South Africa, resulting in a groundbreaking court of appeals decision on the rights of victims of environmental crime. *United States v. Bengis et al.*, 07-4895-cr 2d Cir. (Jan. 4, 2011).
 - Director's Award, U.S. Department of Justice, Executive Office for United States Attorneys, October 2007
 - Certificate of Commendation, U.S. Department of Justice, Environment and Natural Resources Division, September 2004
- Cravath, Swaine & Moore, New York, NY (1995-2000) – Litigation associate

- The Honorable Walter K. Stapleton, U.S. Court of Appeals for the Third Circuit (1994-1995) – Law clerk
- The Honorable John Feikens, U.S. District Court for the Eastern District of Michigan (1993-1994) – Law clerk

Publications

Articles

- Marcus Asner, Samuel Witten and Katherine Ghilain “With Gibson Settlement, ‘Due Care’ is Slightly More Clear” *Hardwood Floors*, October/November 2012
- Marcus A. Asner, Maxwell C. Preston and Katherine E. Ghilain “Gibson Guitar, Forfeiture, and the Lacey Act Strike a Dissonant Chord” *Bloomberg BNA’s Daily Environment Report*. Also published in *the Daily Report for Executives*; *White Collar Crime Report*; and *the International Environment Reporter*, September 4, 2012
- Marcus A. Asner, Samuel M. Witten and Jacklyn DeMar “The Foreign Corrupt Practices Act and Overseas Environmental Crimes: How Did We Get Here and What Happens Next?” *BNA’s Daily Environment Report*. Also published in *Daily Report for Executives*; *International Environmental Report*; and *White Collar Crime Report*, July 12, 2012
- Marcus A. Asner, Samuel M. Witten and Jacklyn DeMar “The Foreign Corrupt Practices Act” *Forest Legality Alliance Newsletter (Volume 1, Issue 6)*, May 21, 2012
- Marcus A. Asner, Samuel M. Witten and Grace Pickering “The Lacey Act Gives Gibson Guitar the Blues” *BNA’s White Collar Crime Report*, December 7, 2011
- Marcus A. Asner and Grace Pickering “The Lacey Act and The World of Illegal Plant Products” *Environmental Law In New York (Volume 21, No. 6)*, June 2010

Blog posts

- Samuel M. Witten, Marcus A. Asner and Katherine E. Ghilain “A Broad New US Government Call for Action in the Fight Against Illegal Wildlife Trafficking” *Consumer Advertising Law Blog*, November 16, 2012
- Marcus A. Asner, Samuel M. Witten and Katherine E. Ghilain “Criminal Enforcement Agreement with DOJ has Gibson Guitar Singing a New Tune” *Consumer Advertising Law Blog*, August 7, 2012
- Marcus A. Asner, Samuel M. Witten and John T. Yow “The Elephant in the Room - Big Brother is Watching You” *Consumer Advertising Law Blog*, July 17, 2012
- Grace Pickering and Marcus Asner “Gibson’s Indian Guitar Wood Blues” *Consumer Advertising Law Blog*, September 8, 2011
- Marcus A. Asner and Grace Pickering “Music to Environmentalists’ Ears: Government Ushers in Next Phase of Lacey Act Enforcement” *Consumer Advertising Law Blog*, April 2, 2010
- Marcus A. Asner and Grace Pickering “Lacey Act’s Power Chord Rocks Guitar Manufacturer” *Consumer Advertising Law Blog*, December 16, 2009

- Marcus A. Asner and Grace Pickering “Nothing to Declare – Yet: USDA Delays Enforcement of Paper Product Declarations under Expanded Lacey Act” *Consumer Advertising Law Blog*, November 4, 2009

Advisories

- “Interpreting The Lacey Act’s “Due Care” Standard after Settlement of the Gibson Guitar Environmental Enforcement Case” Aug. 2012
- “The Lacey Act and the World of Illegal Plant Products” Nov. 2009

Lectures, presentations and panel discussions

- Marcus A. Asner “Interagency Panel Discussion: Species Substitution, Mislabeling, and Fraud” International Boston Seafood Show and Seafood Processing America 2013, Boston, MA, March 10, 2013
- Marcus A. Asner “Why Do We Need Increased Transparency When Investigating Transnational Organized Fisheries Crime?” First INTERPOL International Fisheries Enforcement Conference, Lyon, France, February 26-28, 2013
- Marcus A. Asner “The Lacey Act: Implementation Procedures, Enforcement Challenges, the Gibson Criminal Enforcement Agreement, and ‘Due Diligence’” Forest Legality Alliance Meeting, Washington, DC, December 10, 2012
- Marcus A. Asner, Samuel M. Witten, and Katherine E. Ghilain “The Foreign Corrupt Practices Act and Overseas Environmental Crimes: Analyzing the Intersection of Two Risk Areas” Bloomberg BNA, October 23, 2012
- Marcus A. Asner “Illegal Fishing – Examining Impacts & Solutions” Panelist, World Fisheries Congress, Edinburgh, Scotland, May 10, 2012
- Marcus A. Asner “The Lacey Act and Imported ‘Plant Products’: Recent Enforcement Trends Generate Calls for Amendment” Moderator, The Washington Foreign Law Society, Washington, DC, January 5, 2012
- Marcus A. Asner “United States v. Bengis et al.” International Environmental Law Committee, Association of the Bar of the City of New York, November 21, 2011
- Marcus A. Asner “United States v. Bengis et al.” Pew Charitable Trusts Fisheries Enforcement Roundtable, September 21, 2011
- Marcus A. Asner “Lacey Act Case Study, United States v. Arnold Bengis et al.” National Oceanic & Atmospheric Administration, In-Service Training, Faculty, January 2005

d. Any federal grants or contracts (including subgrants or subcontracts) from the U.S. Department of the Interior that you have received in the current year and previous four years, including the source and the amount of each grant or contract.

N/A

e. A list of all lawsuits or petitions filed by you against the federal government in the current year and the previous four years, giving the name of the lawsuit or petition, the subject matter of the lawsuit or petition,

and the federal statutes under which the lawsuits or petitions were filed.

N/A

f. A list of all federal lawsuits filed against you by the federal government in the current year and the previous four years, giving the name of the lawsuit, the subject matter of the lawsuit, and the federal statutes under which the lawsuits were filed.

N/A

g. Any other information you wish to convey that might aid the Members of the Committee to better understand the context of your testimony.

- I have been involved with Lacey Act matters for over ten years, both as a federal prosecutor in Manhattan and in private practice. I routinely counsel clients on a wide variety of Lacey Act issues, including assisting clients in complying with the 2008 Amendments. I have written extensively on the Lacey Act, and frequently am invited to attend and speak at domestic and international meetings concerning environmental crime.

Witnesses Representing Organizations

Mr. Marcus A. Asner, Arnold and Porter, LLP

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h. Any offices, elected positions, or representational capacity held in the organization(s) on whose behalf you are testifying.

N/A

i. Any federal grants or contracts (including subgrants or subcontracts) from the U.S. Department of the Interior that were received in the current year and previous four years by the organization(s) you represent at this hearing, including the source and amount of each grant or contract for each of the organization(s).

N/A

j. A list of all lawsuits or petitions filed by the organization(s) you represent at the hearing against the federal government in the current year and the previous four years, giving the name of the lawsuit or petition, the subject matter of the lawsuit or petition, and the federal statutes under which the lawsuits or petitions were filed for each of the organization(s).

N/A

k. A list of all federal lawsuits filed against the organization(s) you represent at the hearing by the federal government in the current year and the previous four years, giving the name of the lawsuit, the subject matter of the lawsuit, and the federal statutes under which the lawsuits were filed.

N/A

l. For tax-exempt organizations and non-profit organizations, copies of the three most recent public IRS Form 990s (including Form 990-PF, Form 990-N, and Form 990-EZ) for each of the organization(s) you represent at the hearing (not including any contributor names and addresses or any information withheld from public inspection by the Secretary of the Treasury under 26 U.S.C. 6104)).

N/A