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2016 BCPC 113
British Columbia Provincial Court

R. v. Kim

2016 CarswellBC 1204, 2016 BCPC 113, [2016] B.C.W.L.D. 3879, 129 W.C.B. (2d) 584

Regina v. Yunhee (Sarah) Kim

T.S. Woods Prov. J.

Heard: January 19, 2016

Judgment: March 4, 2016

Docket: Port Coquitlam 93858-1

Counsel: J. MacAulay, for Crown

K. Blok, for Defendant

Subject: Natural Resources; Public

Related Abridgment Classifications

Natural resources

I Fish and wildlife

I.5 Offences

I.5.o Sentencing

I.5.o.i Fines

Headnote

Natural resources --- Fish and wildlife — Offences — Sentencing — Fines

Accused was registered acupuncturist, traditional Chinese medicine herbalist, and traditional Chinese medicine practitioner — Accused entered guilty pleas to three counts of **trafficking** in bear gall bladders, two counts of **trafficking** in bear paws separate from carcass or hide, and two counts of **trafficking** in deer meat — Hearing held concerning sentence — Accused sentenced to fine of \$3,200 each on seven counts for which she had entered pleas of guilty — While recently-raised statutory minimums were high enough to have considerable general deterrent force in and of themselves, they did not have enough general deterrent force to serve ends of justice on facts of case — Accused's sentence had to be proportionate to gravity of her offending and degree of her responsibility for her offending — Exploiting protected resource for commercial gain was offending of some considerable gravity, and accused came before court in state of high moral blameworthiness, in part because she was seeking profit from activity that she knew was illegal — Accused was not just **trafficking** in one particular animal part — She had admitted to **trafficking** in bear gall bladders, bear paws, bear bile, and deer meat, and she had it in mind to expand enterprise by purchasing all bear parts her suppliers could get for her.

Table of Authorities

Cases considered by T.S. Woods Prov. J.:

R. v. Bechard (May 29, 2000), Doc. Surrey Registry 106105-01-C (B.C. Prov. Ct.) — followed

R. v. Isaacson (May 13, 1997), Doc. Hope Registry 13168-01-07 (B.C. Prov. Ct.) — considered

R. v. Kim (January 11, 1996), Doc. Surrey Registry 60597-C (B.C. Prov. Ct.) — considered

R. v. Lamouche (1998), 1998 CarswellAlta 1215, 236 A.R. 69, 1998 ABPC 101 (Alta. Prov. Ct.) — followed

R. v. Mota (1991), 117 A.R. 42, 2 W.A.C. 42, 1991 CarswellAlta 634 (Alta. C.A.) — considered

R. v. Shamrock Chemicals Ltd. (1989), 1989 CarswellOnt 2798 (Ont. Prov. Offences Ct.) — considered

Statutes considered:

Criminal Code, R.S.C. 1985, c. C-46

Generally — referred to

Wildlife Act, R.S.B.C. 1996, c. 488

Generally — referred to

s. 22 — considered

s. 84(2)(a) — considered

s. 84.1 [en. 1999, c. 24, s. 17] — considered

s. 84.1(1)(e)(ii) [en. 1999, c. 24, s. 17] — considered

s. 122(1) — considered

Regulations considered:

Wildlife Act, R.S.B.C. 1996, c. 488

Wildlife Act Commercial Activities Regulation, B.C. Reg. 338/82

Generally — referred to

s. 2.08(3)(a) — considered

s. 2.08(3)(c) — considered

s. 2.08(4) — considered

HEARING concerning sentencing of accused who entered guilty pleas to three counts of **trafficking** in bear gall bladders, two counts of **trafficking** in bear paws separate from carcass or hide, and two counts of **trafficking** in deer meat.

T.S. Woods Prov. J.:

1

THE COURT: Before the court for sentencing for offences under the *Provincial Wildlife Act*, R.S.B.C. 1996, c. 488, and under the *Wildlife Act Commercial Activities Regulation*, B.C. Regulation 338/82, is registered acupuncturist, traditional Chinese medicine herbalist and traditional Chinese medicine practitioner, Yunhee Sarah Kim. Sarah Kim has previously entered guilty pleas to seven counts on Information 93858-1, sworn May 20th of 2015, in relation to events that occurred in October, November and December of 2014 and March of 2015. The Crown has proceeded summarily against her in relation to what can broadly be described as environmental regulatory offences.

2 There is a co-accused named in some of the relevant counts, whose name is also Kim. This sentencing is concerned solely with Yunhee Sarah Kim. To avoid confusion, I will refer throughout to the offender before me as "Sarah Kim".

3 The counts on the Information to which Sarah Kim has entered pleas are Counts 1, 2, 4, 5, 7, 8 and 9. I am not going to read them *verbatim* into the record.

4 Count 1 charges Sarah Kim with the offence of **trafficking** in bear gall bladders. The offence date was October 27, 2014.

5 Count 2 charges Sarah Kim with the offence of **trafficking** in bear paws separate from the carcass or hide on the same offence date.

6 Count 4 charges Sarah Kim with the offence of **trafficking** gall bladders. The offence date there was November 12, 2014.

7 Count 5 charges Sarah Kim with the offence of **trafficking** in bear paws separate from the carcass or hide, also on November 12, 2014.

8 Count 7 charges Sarah Kim with the offence of **trafficking** in wildlife meat, that is to say, deer meat. The offence date was November 12, 2014.

9 Count 8 charges Sarah Kim with **trafficking** in wildlife meat, that is to say, deer meat, on December 3rd of 2014.

10 Lastly, Count 9 charges Sarah Kim with the offence of **trafficking** in bear gall bladders. The offence date was March 25th of 2015.

Circumstances of the Offences

11 I will turn to a somewhat detailed narration of the circumstances of the offences.

12 The investigation leading to the charges against Sarah Kim were triggered by a call that was made by Sarah Kim's co-accused in early October of 2014 to the Yellowstone County Bear Hunters Association in Wyoming. Sarah Kim's co-accused was looking for bear gall bladders. The representative of that association who took the call reported it to a state fish and wildlife authority and Sarah Kim's co-accused told him that she knew that buying bear gall bladders was illegal but that she intended to buy them anyway because she needed them to treat her son for a neurological condition from which he suffers. The representative of the state authority forwarded that information to a conservation officer in British Columbia who, in turn, initiated a covert operation to investigate.

13 In late October of 2014, the B.C. Conservation officer leading that investigation, Officer G., arranged by telephone to meet Sarah Kim's co-accused on October 27, 2014 at the parking lot of the Canadian Tire store in Merritt, B.C. The co-accused told the officer that Sarah Kim would attend the meeting with her. The co-accused also inquired about purchasing bear paws. Officer G., working undercover, told the co-accused that the buying or selling of bear parts was illegal. The co-accused acknowledged that she knew that the buying and selling of bear parts was illegal and offered that she did not want to see bears killed but that people were more important than bears.

14 On October 27th, Sarah Kim and her co-accused travelled, as planned, from Coquitlam to Merritt and met Officer G., posing as a hunter, in the Canadian Tire parking lot. Officer G., accompanied by her colleague, Officer J. (again both of them acting in an undercover capacity), sold Sarah Kim and her co-accused three black bear gall bladders and four black bear paws for \$750. Sarah Kim explained to the undercover officers that she used the bear parts for medicinal purposes. Sarah Kim and her co-accused also told the undercover officers that they wanted as many bear gall bladders as they could get.

15 The next day there were more follow-up telephone conversations in which the co-accused explained that she had kept one of the gall bladders purchased on the 27th and that Sarah Kim had the other two. Discussions proceeded about obtaining bear gall bladders and some bear meat.

16 On November 10, 2014, Officer G. called Sarah Kim and offered her another gall bladder. Sarah Kim agreed to take it, inquired about bear paws and provided her work address in Coquitlam. Sarah Kim followed up that conversation later that day with an inquiry about bear meat. Officer G. said she could not fulfil that request but that she had moose and deer meat on offer. Sarah Kim asked for \$100 to \$200 worth of that.

17 Officer G. had further telephone conversations with Sarah Kim's co-accused as well, out of which a plan to meet at Sarah Kim's clinic in Coquitlam arose for the purpose of effecting sales of wildlife meat and another bear gall bladder.

18 On November 12, 2014, Officers G. and J., continuing their undercover operation, travelled to Sarah Kim's acupuncture clinic and wellness centre in Coquitlam and sold her two bear gall bladders, four bear paws and six packages of cut and wrapped deer meat. The prices were \$150 each for the gall bladders, \$50 per bear paw and \$40 for the deer meat, for a total of \$540.

19 Officer G. returned to Sarah Kim's acupuncture clinic and wellness clinic two days later, on November 14th, and while there she asked Sarah Kim about her use of bear parts and wildlife meat. Sarah Kim told the undercover officer that she enjoyed the meat but preferred meat with joints in it because parts of the joints had medicinal purposes. Officer G. said that she could sell Sarah Kim a whole deer for \$200 and Sarah Kim replied, "Deal," and extended her hand to the undercover officer to shake on it. The discussion then turned to the possibility of supplying bear gall bladders to others with the undercover officer saying that she could get between 20 and 30 in the spring. Importantly, Sarah Kim advised that her ordinary practice is to use about five per year but that she, Sarah Kim, preferred that the undercover officers sell all of the gall bladders the officers could source to her.

20 On December 3, 2014, undercover officers G. and J. returned to Sarah Kim's acupuncture and wellness centre and sold her four quarters of a deer for a hundred dollars.

21 Now, we move ahead from the fall of 2014 to the spring of 2015. On March 11, 2015, Det. Cst. G. of the Vancouver Police Department, who was working undercover in coordination with the Conversation Officer Service, attended at Sarah Kim's acupuncture clinic and wellness centre for a scheduled appointment with her. He presented a list of fictitious ailments believed to be the kinds of ailments that might be treatable by some practitioners using bear bile. He was prescribed and given a tea-like herbal remedy by Sarah Kim.

22 Before leaving, Det. Cst. G. commented about his frustration with his ailments and mentioned that his mother from Singapore had suggested that bear bile might help to treat those ailments. Sarah Kim told him that bear bile comes from bear gall bladders and, importantly, she also told the undercover officer that it is illegal to trade in bear gall bladders and that she could not help him in that way. The undercover officer persisted and Sarah Kim acknowledged that she had used treatments made from gall bladders for herself and for one other person. She repeated to Det. Cst. G. that trade of that kind was illegal.

23 The undercover officer replied that he was not interested in trading in products derived from bear gall bladders but rather that he wanted to be treated by such products to deal with his frustrating symptoms. Sarah Kim hesitated at hearing that from the undercover officer and then told him that the treatment he wanted would be very expensive, that is, \$1,000. The officer told her that price was not a problem and Sarah Kim responded that she would provide him with treatment on a follow-up appointment that was fixed for March 25th, 2015.

24 Det. Cst. G. returned to Sarah Kim's acupuncture clinic and wellness centre on March 25th for his follow-up appointment and he reminded Sarah Kim of her offer to treat him with a bear gall bladder product. He showed her that he had brought \$1,000 with him. Sarah Kim told him that she did not have any bear bile and that she only gets it from a hunter friend in the spring and the fall. The undercover officer then asked if she knew anyone or anywhere else he could get some bear bile. With that, Sarah Kim walked to the back of the rear area of the clinic and then returned with a one-litre vodka bottle which was one-third full of a greenish-coloured liquid, that is, vodka infused with bear bile. She also brought with her a plastic bag with something grey in it, a shot glass, and a small plastic bottle. Sarah Kim told Det. Cst. G. that the grey item in the bag was a bear gall bladder and that she had squeezed some of its contents into the bottle of vodka and had been using it for herself and her family. She poured approximately two shot glasses of the green liquid from the vodka bottle into the small plastic bottle and sold it to Det. Cst. G. for \$100. Immediately after that, Sarah Kim was placed under arrest.

25 Now, it can be seen from the Crown's narrative that Count 1, which charges Sarah Kim with **trafficking** in bear gall bladders on October 27th of 2014, arises out of the transaction that took place in the Canadian Tire parking lot in Merritt.

26 Count 2, which charges Sarah Kim with **trafficking** in bear paws on October 27th arises out of that same transaction in Merritt.

27 Count 4, which charges Sarah Kim with **trafficking** in bear gall bladders on November 12th of 2014, arises out of the transaction that took place on that date at her acupuncture clinic and wellness centre in Coquitlam.

28 Count 5, which charges Sarah Kim with **trafficking** in bear paws on November 12th, 2014, arises out of that same transaction in Coquitlam.

29 Count 7, which charges Sarah Kim with **trafficking** in wildlife meat on November 12th, 2014, arises out of the part of that same transaction in Coquitlam that involved the purchase by her of deer meat from the undercover officers.

30 Count 8, which charges Sarah Kim with **trafficking** in wildlife meat on December 3, 2015, arises out of the second transaction in Coquitlam in which she purchased deer meat from undercover officers.

31 Count 9, which charges Sarah Kim with **trafficking** in bear gall bladders in Coquitlam on March 25th, 2015, arises out of the transaction with Det. Cst. G. in which she sold the undercover officer the equivalent of two shot glasses of bear bile infused vodka for \$100.

Circumstances of the Offender

32 We come now to the circumstances of the offender, Sarah Kim.

33 Sarah Kim is 50 years old. She was born in Korea and emigrated from there to Canada in 2003 with her two young children. She is now a Canadian citizen. She is a registered acupuncturist, a registered traditional Chinese medicine herbalist and a registered traditional Chinese medicine practitioner. She qualified here in Canada in these professions and has been practising them for six years. She now earns approximately \$50,000 to \$60,000 per year from her practice, after expenses. Sarah Kim carries on business, as noted, out of an acupuncture clinic and wellness centre in Coquitlam, B.C.

34 Sarah Kim's husband, a practising dentist in Korea, followed her and the children to Canada in 2007. He was unemployed until recently but he has now qualified to practice dentistry in British Columbia. He has done that in the last year but because he had to take out a large loan to start his dental practice, he has not yet made any profit from that practice. However, he expects to turn a profit in the coming years.

35 Importantly, Sarah Kim comes before the court for sentencing today with no criminal record.

36 Her counsel submits, on instructions, that Sarah Kim's involvement with **trafficking** in bear parts and wildlife meat began with the dealings that are the subject of the charges for which she is answerable for today. It was her co-accused's son's illness that led her co-accused to approach her and matters proceeded from there. Thus, on the uncontroverted submissions of her counsel, Sarah Kim had no history of dealings in bear parts or wildlife meat prior to the events that have brought her before the court for sentencing today.

37 That said, however, it is clear on the material before me that Sarah Kim had aspirations and intentions of getting into the practice of **trafficking** in bear parts and wildlife meat in a serious way. Recall that she told undercover officers that her ordinary practice was to use five bear gall bladders per year. I take that to be a description of her practice as it was beginning and expected to continue in October of 2014 when she made the statement.

38 Recall as well that in the Canadian Tire parking lot, Sarah Kim and her co-accused told the undercover conservation officers that they wanted *as many bear gall bladders as they could get* and that later in November, when Officer G. told her she could get 20 to 30 bear gall bladders in the spring, Sarah Kim said that she wanted to purchase *all of the bear gall bladders that she could source*.

39 Then we have the fact that what can only have been a comparatively small amount of bear bile infused vodka — two shot glasses of it — was sold to Det. Cst. G. by Sarah Kim. While we do not have all of the information necessary for a precise calculus, the information that is available — including the fact that Sarah Kim was paying \$150 each for bear gall bladders and quoting \$1,000 for a course of treatment — leaves little room for doubt that the profit margin in this kind of illicit commerce is substantial. (And that relates only to the bile. The bladders themselves also have substantial commercial value on the illicit market, a fact that is acknowledged in some of the cases placed before me where expert evidence was led on the point, including Judge MacDonald's decision in *R. v. Kim* [January 11, 1996], Doc. Surrey Registry 60597-C (B.C. Prov. Ct.)], unreported January 11, 1996, file number 60597-C, Surrey Registry, to which I shall return later.)

40 It should be noted that while some of the wildlife meat at issue here seems to have been of interest to Sarah Kim for her own consumption, she did stipulate for wildlife meat with joints because of the medicinal properties of the joints. In this way, the **trafficking** she did in wildlife meat was, at least in part, motivated by the same considerations as the **trafficking** in bear parts.

41 It is not disputed by the Crown that Sarah Kim cooperated and participated with a plan to traffic in bear parts and wildlife meat that originated with her co-accused, a point that her counsel raises by way of explanation of, but not as an excuse for, her actions. However, while that may have been how the activity was initiated, it is clear that Sarah Kim recognized the business potential of the idea that had first been planted by her co-accused. Her uncontradicted words to the undercover conservation officers bear out that she had ambitions to exploit that commercial potential aggressively by purchasing, among other things, all of the bear gall bladders the officers posing as hunters could get her. It will be recalled that the officers spoke of the possibility of getting 20 to 30 bear gall bladders in the spring of 2015.

42 Sarah Kim is held in high regard by members of her family, by other non-traditional medical practitioners and by members of the Korean community. No fewer than ten letters were filed at the time of sentencing, all speaking positively of Sarah Kim's generosity, her care and concern for her patients and for the disadvantaged. She is described as a hardworking community volunteer and supporter of charitable causes and as a person who is remorseful for having contravened the law by **trafficking** in bear parts and wildlife meat.

43 While some of Sarah Kim's supporters included in their letters some unhelpful, inappropriate and inaccurate observations and speculations about her criminal intent and the presence or absence of a profit motive for her **trafficking** behaviours, I have disregarded those aspects of the support letters and remain convinced that those letters do speak to Sarah Kim being a giving and generous parent, friend, neighbour and colleague, who has some insight into her own offending and who is genuinely remorseful about it.

Effects of Offending On Victims

44 I must now consider the effect of Sarah Kim's offending on victims. The bears whose parts enter the stream of commerce in response to demand created by Sarah Kim can be viewed as victims. More broadly, all citizens of the Province of British Columbia can, in a sense, be viewed as victims. This is because wildlife, protected wildlife, constitutes a precious resource. It is protected for the benefit of all citizens of the province. When offending of the kind committed by Sarah Kim intrudes into the protected zone and results in the harvesting of bear parts, all members of society, in some measure, suffer.

The Relevant Legislation

45 I turn to the relevant legislation. I will address the provisions of the *Wildlife Act* and the associated *Wildlife Act Commercial Activities Regulation* that prohibit the activities that have brought Sarah Kim before the court today.

46 The two counts that relate to **trafficking** in wildlife meat, here deer meat, invoke s. 22 of the *Wildlife Act*, which reads:

A person who traffics in live wildlife or wildlife meat, except as authorized by regulation or a permit, commits an offence.

47 The three counts that relate to **trafficking** in bear gall bladders invoke s. 2.08(3)(a) of the *Wildlife Act Commercial Activities Regulation*, which reads:

A person commits an offence by **trafficking** in ... bear gall bladders.

I pause to note that with respect to Count 9, s. 2.08(4) provides that for the purposes of s. 2.08(3)(a), a derivative like bear bile is included in the definition of "bear gall bladder".

48 The two counts that relate to **trafficking** in bear paws invoke s. 2.08(3)(c) of the *Wildlife Act Commercial Activities Regulation*, which reads:

A person commits an offence by **trafficking** in ... bear paws that are separate from the carcass or the hide.

49 With respect to penalties, the legislation plots a rather tortuous pathway. I will not trace that pathway through all of the sections in the *Wildlife Act*, the *Wildlife Act General Regulation* and the *Wildlife Act Commercial Activities Regulation* because counsel do not differ in their view of where that pathway leads; that is, they do not differ as to what penalties are available under that legislation to sanction Sarah Kim for the offences she has admitted to committing.

50 I, therefore, think it is sufficient to note for today's purposes that all of the offences to which Sarah Kim has pleaded guilty and for which she is being sentenced today are governed by s. 84(2)(a) of the *Wildlife Act*, which, for first-time offenders, fixes a maximum fine of \$250,000 per count, a minimum fine of \$2,500 per count, or a term of imprisonment not exceeding two years, or both.

51 As Mr. MacAulay for the Crown put it in his submissions, "We get there by various regulations but they all end up at the same place, the most serious penalties that are available under the *Wildlife Act*."

52 There is a further provision within the legislation that calls for mention. It is s. 84.1 of the *Wildlife Act*, a provision that is entitled "Creative Sentencing". In summary, it provides authority for a sentencing judge to stipulate, pursuant to s. 84.1(1)(e)(ii) that to the extent a fine is imposed that exceeds the statutory minimum on any given count, the amount in excess can be designated by the sentencing judge to be paid to the Habitat Conservation Trust Foundation to fund conservation and biodiversity-enhancing initiatives.

Mitigating Factors

53 We come now to mitigating factors.

54 Sarah Kim has entered relative early pleas of guilty to Counts 1, 2, 4, 5, 7, 8 and 9 on Information 93858-1. By doing so, she has relieved the Crown and the Crown witnesses of the burden of proving its case against Sarah Kim in a trial. She has also relieved the court system of a burden and she has allowed resources within the court system that would otherwise have been deployed to adjudicate the Crown's case against Sarah Kim to be deployed elsewhere. That has mitigating force with respect to sentencing and I consider it and treat it as such.

55 I consider it a mitigating circumstance that Sarah Kim comes before the court with no criminal record.

56 Through her counsel, Ms. Blok, Sarah Kim has made sincere expressions of remorse for her unlawful conduct. The existence of that remorse constitutes a mitigating circumstance and I treat it as such.

57 I consider, on the basis on all that I have heard and had to turn my mind to, that Sarah Kim is at a low risk of re-offending. She represents a low risk to the community of committing other offences of this kind in the future. That operates in mitigation of sentence.

58 Just as there are mitigating circumstances, there are also aggravating circumstances to be seen in relation to Sarah Kim's offending. Where offending reflects a pattern of planning and premeditation, that operates in aggravation of sentence. There is nothing spontaneous or opportunistic or spur-of-the-moment about Sarah Kim's offending here. Thought and careful planning went into it. The offending was the result of a considered determination to offend and that serves as an aggravating factor for the purposes of sentencing today.

59 Where an offender's conduct supports the inference that there is a callous disregard for the harm caused by the offending, that operates as an aggravating factor.

60 Protected wildlife are, as I have already acknowledged, a precious resource. Exploiting protected wildlife for a business purpose in a way that subordinates the integrity of that resource and its place in our society reflects a callous disregard for the harm that results from the offending. That aggravating factor is on foot in this case.

61 Where an offender commits offences that are motivated in part or in whole by the pursuit of profit, that, in cases of this kind, operates as a factor in aggravation of sentence.

62 I am going to quote from some cases that address that subject, the subject of the profit motive. There are many cases which point to that being an aggravating factor. I will only cite a couple, starting with a decision called *R. v. Bechard* [(May 29, 2000), Doc. Surrey Registry 60597-C (B.C. Prov. Ct.)], which is unreported, Surrey Registry number 106105-01-C, May 29th, 2000, a decision that includes the following at page 3:

There is a real danger that any fine imposed by the court may seem to be merely a license for such activity and does not sufficiently address the need to make sure that people will not, under any circumstances, abuse our natural resources.

Then skipping down the page a little further, and this is the judge speaking now to the accused in that case:

I think it equally significant that your criminal enterprises marked by folly and greed and displays little forethought both to consequence for yourselves and most certainly not for the citizens of Canada who suffers the loss of the endangerment of their species and the abuse of species by activities such as yours.

63 There is a decision of the Alberta Court of Appeal called *R. v. Mota*, [1991] A.J. No. 579 (Alta. C.A.). On page 2 of that decision, and referring to the trial judgment, Mr. Justice McClung says:

Cooke, J. noted that human pressure on our wildlife has never been as great as it is today. He referred to international demand for trophies, coupled with the trade in animal parts, as becoming so profitable that certain wildlife populations will soon be on the road to decimation. We agree. When the illegal and repetitive killing of wildlife is detected it must be exposed and exemplified. Where it is done for profit, no effective answer is to be found in admonition or remonstrance but only in condign sentencing. So we affirm these sentences.

Plainly, the exploitation of protected wildlife resources contrary to law and for a profit engages the profit motive as an aggravating factor.

Sentencing Principles and Considerations Distilled from the Applicable Case Law

64 I am now going to turn to sentencing principles and considerations that I have distilled from the applicable case law.

65 General principles that figure in sentencing for environmental regulatory offences — and Sarah Kim's offences fit within that category — are well articulated in a case called *R. v. Shamrock Chemicals Ltd.* [1989 CarswellOnt 2798 (Ont. Prov. Offences Ct.)]. That is an unreported decision of an Ontario Provincial Court Judge, Judge Phillips, originating from the Provincial Offences Court in St. Thomas, Ontario. The date was February 13th, 1989. I am going to read some key passages from that decision because, perhaps more than any other, that decision has been cited for what it has to say about the general principles, the guidelines, the overarching approach that sentencing judges must take in sentencing offenders like Sarah Kim. I will turn to page 3. The sentencing judge in *Shamrock Chemicals* had before him a publication and His Honour cites from that publication and some of the passage I am going to read into the record now draws from that publication. The publication is titled "Sentencing in Environmental Cases: A Study Paper Produced by The Law Reform Commission of Canada". Judge Phillips says:

I have a publication entitled 'Sentencing in Environmental Cases: A Study Paper Produced by The Law Reform Commission of Canada' for reference in dealing with the principles of sentencing which are applicable in these cases. While this is a somewhat lengthy dissertation, nevertheless, it is important to have these principles on record to indicate that the court has considered the applicable principles of sentencing. In the introduction, it says:

The true measure of the effectiveness of prosecutions for violation of environmental legislation is not in laying charges or obtaining a conviction but in the result of the conviction. The ultimate goals are to stop the offending behaviour —

Dropping down the page a little:

— and to prevent a recurrence of the offence. In addition to having the effect of specific deterrence, the prosecution should also deter others from engaging in similar behaviour.

Prosecutions also reinforce societal values. They provide a dramatic and visible demonstration of the government's will to protect certain values and an affirmation that the community continues to hold those values strongly. The sentences imposed play a vital role in achieving those goals.

Dropping down the page on page 4:

The provable harm arising from a violation may be harm not to any individual but to the public as a whole or even harm to the environment in which it is difficult to prove any human interest. The diffuseness of such harm makes it difficult to establish the gravity of the offence, a key consideration in sentencing.

Activities that contribute incrementally to the gradual deterioration of the environment, even when they cause no discernible direct harm to human interest, should also be treated seriously. Each actor must bear his share of the responsibility for any ultimate harm, if there is to be an effective deterrent to eventual destruction which will harm human interests.

In dealing with an examination of current principles in finding in sentencing, the report has this to say under the heading "Protection of the Public":

In environmental cases, the effect of the principle that the protection of society is paramount, is to underline the serious nature of the offence and prevent its trivialization. It supports the use of strong deterrence and punishments even in the absence of serious harm to individuals or the environment.

Dropping down the page:

There is a descending scale of immorality with extremely shocking behaviour and morally-neutral behaviour only at the extremes.

I pause here to say Sarah Kim knew that what she was doing for the great majority of the time she was doing it was contrary to law. We are in a situation where one can place Sarah Kim on that continuum referred to by Judge Phillips not at the extremes but nevertheless on the continuum. Carrying on further down the page:

In dealing with the subject of deterrence, it is said, "In the analogous areas of trade offences and tax evasion, deterrence is the major sentencing objective. The classic statement with respect to deterrence repeated in a number of subsequent cases is that the fine 'must not be a license fee, something capable of being regarded as a probable cost of or necessary risk in doing business in the manner in question. The basic rule in environmental cases —

I lay emphasis on this passage:

— as in other cases is that, without being harsh, the fine must be substantial enough to warn others than the offence will not be tolerated. It must not appear to be a mere license fee for illegal activity."

66 More observations of general application can be found in *R. v. Lamouche*, [1998] A.J. No. 1437 (Alta. Prov. Ct.), a Provincial Court sentencing decision relating to *Wildlife Act* offences committed by hunters in Alberta who **trafficked** in wildlife. *Lamouche*, too, has frequently been cited with approval by this court. I pause to say I am looking to these cases for guidance on general principles. I recognize that the *Shamrock* decision is not a case involving bear parts or even wildlife at all; it is a pollution case. But in *Shamrock* and other similar cases we hear judges articulating general statements of policy, of policy that informs the law when offenders come before the court to answer for environmental offences. What can be taken from these cases are generic sources of guidance that can apply to cases arising from vastly differing factual foundations.

67 Returning to *Lamouche*, I am going to quote again at some length because we are dealing here with environmental regulatory offences, not expressly under the umbrella of the *Criminal Code* where one can be more economical and simply point to a number of codified statutory purposes and objectives of sentencing. With environmental regulatory offences, one must distil the governing purposes and objectives of sentencing from the case authorities that have been helpfully placed before the court.

68 In *Lamouche*, at page 2 this statement is found:

The task of imposing a fit sentence is the most difficult challenge a judge faces. In our system, with few exceptions, he or she cannot hide behind mandatory sentences imposed by statute. Instead, the judge is required to choose among the options provided by the lawmaker, all the while attempting to do justice to each of the competing interests involved. It is an obligation more easily expressed than fulfilled. While both the circumstances of the offender and of the offence itself must be weighed in choosing an appropriate sanction, judges do not always make it clear that the objectives of the legislation being enforced are an essential part of the framework within which that choice must be made. In that regard courts have long recognized that the provincial *Wildlife Act* and federal statutes like the *National Parks Act* [citation given], as one of their objectives, the management and ultimately the preservation of the wildlife resource. Mr. Justice McClung, for the Alberta Court of Appeal, articulated the importance of that task in *R. v. Mota* —

Mota is a case to which I had recourse a few minutes ago. The quotation from *Mota* in *Lamouche* is:

To survive in any abundance Canada's wildlife must be accorded the priority of a treasured national heritage - which it is. It must be protected and, within the resources of the law, defended.

Of course, not all wildlife offences are the same. That is evident from the fact that sections 92 and 93 assign five different maximum penalties for contraventions of the Act, depending on the type of offence involved. Nevertheless, **trafficking** in wildlife and hunting for that purpose pose one of the greatest threats to the management and protection of the wildlife resource. The lawmaker has made that clear by specifying that those offences carry the highest penalty permitted by the Act —

I pause to say that here, in this case, in this British Columbia case, the fines are the highest available under the *Wildlife Act*. Carrying on in *Lamouche*:

There are natural controls on those who hunt for food for themselves, even when they do so illegally. There is a limit to how much they can eat, how fast they can eat it and how much they can reasonably store. While there may be exceptions to the general rule, those simple realities limit how many animals will likely be taken by those types of illegal hunters. The **trafficker** is different. Since he or she is, in effect, hunting for sale to others, the take is limited only by the number of willing buyers and by his or her own greed. As is so amply demonstrated by these prosecutions, the goal is money, and usually quick money, not the future of the hunter's own food supply. In the result, the **trafficker** often shows little regard for the preservation of the resource he or she exploits.

69 Here, as I have acknowledged earlier, is why the profit motive is so profoundly important. There was a commercial purpose, a business purpose, that lay at the root of Sarah Kim's offending. She sought to obtain bear gall bladders in significant numbers. She was seeking to acquire inventory. There can be no reasonable explanation other than that the pursuit of the commercial benefit was the driving force behind this offending.

70 Carrying on further down page 3 of *Lamouche*:

Since the **trafficker** by definition tries to avoid apprehension, it also inevitably affects the proper management of the wildlife resource because the number, gender and species of animals taken in any one year is made more difficult to determine.

A little further down:

As has been pointed out elsewhere, wildlife offences are easy to commit and hard to detect. It is virtually impossible to adequately police the large geographical areas open to the hunter. The illegal hunter often operates in sparsely populated areas at a distance from main highways. He or she usually has no qualms about hunting under cover of darkness. Perhaps more than in any other area of law enforcement, wildlife officers depend on tips from concerned citizens to extend their reach further than would otherwise be possible. Where the chance of discovery is small, temptation increases. That is why general deterrence, usually expressed by high fines even for first offenders, plays such a significant role in sentencing for wildlife offences.

The **trafficker** has advantages even beyond those enjoyed by other illegal hunters. **Trafficking** is not complete until the offender "sells, buys, barter, solicits or trades" wild game or offers to do so. The offence then may be committed almost anywhere: on the telephone, in a gravel pit off the main highway at 2:30 in the morning —

I pause to say, "or perhaps in a parking lot at a Canadian Tire store in Merritt, or perhaps a wellness centre and acupuncture clinic in Coquitlam." Continuing:

Their resources already stretched to the limit by the vast areas they have to patrol, it is clear that Fish and Wildlife Officers have virtually no chance of enforcing the laws against **trafficking** by traditional methods. They must depend on the unlikely intervention of informers or on undercover operations like the one which led to the charges in this case. Even then, the number of offenders actually caught will be relatively small considering the expense and effort involved in mounting such operations.

Given the serious threat they present to the wildlife resource and the temptation which inevitably results from the prospect of monetary gain with little risk to the offender, sentencing for **trafficking** offences must, in my view, emphasize before all else individual and general deterrence. The message which should be sent to **traffickers** and prospective **traffickers** alike is that the price will be very high indeed in the event they are caught.

Over on page 5:

...I want to make it clear that I believe the approach I suggest should apply to buyers as well as sellers. While I am dealing with suppliers here, buyers are **traffickers** too. Without markets for their kill, hunters have little incentive to engage in **trafficking** activities. Buyers should understand that they too risk their liberty by encouraging others to break the law by their purchases.

71 The decision in *Lamouche* was overturned, in part, but that aspect related to the learned sentencing judge's ruling with respect to imprisonment. That was the sanction of first resort in his view. There is nothing in the appellate court's reasoning on appeal to call into question the general statements of principle that I have been quoting at length from the Provincial Court decision.

72 Like the protective provisions of the relevant legislation themselves, the cases generally reflect a concern about economic pressures on populations of creatures like bears. Decisions like *R. v. Kim*, mentioned earlier, acknowledge that the demand for bear parts for cultural and medicinal uses poses a risk to bear populations in this province. I accept Crown counsel's submission that that risk is reflected in the relatively recent and dramatic increases in the minimum and maximum fines for **trafficking** in bear parts.

73 Sarah Kim obviously is not a hunter involved directly in the unlawful harvesting and slaughter of wildlife, but by employing bear parts and wildlife meat as raw materials for her practice as a traditional Chinese medicine practitioner and wellness centre proprietor, she created demand for bear parts and wildlife meat that hunters fill. Her actions contributed to the illicit market for bear parts and wildlife meat. Her actions created an incentive for others to deplete wildlife populations unlawfully for gain. It is for these actions that she is answerable today.

74 I have already noted in my own words and in words I have quoted from court decisions the importance of deterrence in sentencing offenders like Sarah Kim. In particular, general deterrence looms large in the sentencing logic of courts faced with offenders who commit environmental regulatory offences.

75 In sentencing for these kinds of offences, the key importance of deterrence, and especially general deterrence, is frequently acknowledged. Its prominence in sentencing logic has led to the imposition of heavy fines even upon offenders with limited means. The previously mentioned *San Ho Kim* decision reflects this pattern. That decision was given when the fines under the relevant legislation were much lower than they are today. I readily acknowledge that the quantities of bear parts that the offender in *San Ho Kim* had in his possession were much larger than the quantities here. Still, in all, in order to achieve the general deterrence necessary in that case, Judge MacDonald of this court fined the offender who had very limited means, \$1,400 per count in relation to seven possession counts. This is what Judge MacDonald said at pages 6 and 7 of that decision:

The message of general deterrence to the public, however, is an important one. As I say, we live in a small world. There has to be a sentence imposed which would discourage people from becoming involved in this kind of business again. You knew what you were doing was illegal and you participated for one reason and that is greed and, as a result of that, you are before these courts today. With respect to a penalty, I am going to impose a financial penalty, taking into account that you have very little ability to pay and I am told that you are supported by your family, that you are not employed, that you have lost your business, any penalty that I impose of a financial nature obviously will be a great hardship to you.

With respect to Counts 1 through 7, and those are possession of bear parts counts, I am going to impose fines in the amount of \$1,400 on each count.

In the end, in that case, the aggregate was \$10,000.

76 Essentially, the same approach is seen in *R. v. Isaacson* [(May 13, 1997), Doc. Hope Registry 13168-01-07 (B.C. Prov. Ct.)], unreported, May 13, 1997, Hope Registry number 13168-01-07, Provincial Court, and *R. v. Yuan Mae He*, unreported, April 22nd, Hope Registry number 14053, both decisions of Judge Young. In both cases, somewhat sympathetic offenders came before the court in economically straitened circumstances. In *He*, there was not even a commercial motive evident. Yet, nevertheless, the fines imposed were substantial in order to serve, among other things, the objective of general deterrence.

77 These cases to which I have made reference are of great assistance to me, both in terms of giving expression to the governing principles and the policy of the law in this unique area of environmental regulatory offending, but also in pointing the way in terms of where on the continuum of minimum to maximum fines judges have tended to go when dealing with offenders who, at least in some respects, are broadly comparable to Sarah Kim.

Positions of Counsel

78 I come now to the positions of counsel.

79 The Crown does not consider that simply imposing the minimum fine in this case of \$2,500 per count would be a fit sentence. The total for seven counts at the statutory minimum would be \$17,500. The Crown, rather, recommends that the fines in the aggregate fall somewhere in the \$20,000 to \$25,000 range. That, per count, reflects a range of approximately \$2,900 to \$3,600.

80 As to ancillary orders, the Crown also seeks forfeiture of all of the monies Sarah Kim paid to the undercover officers for bear gall bladders and wildlife meat on November 12th, 2014 and December 3rd, 2014, at her acupuncture clinic and wellness centre, and the \$100 that Det. Cst. G. paid her for the two shot glasses of the vodka bear bile mixture on March 25th, 2015.

81 Sarah Kim, through her counsel, Ms. Blok, to the contrary, argues that, in all the circumstances, the statutory minimum of \$2,500 per count would constitute a sufficient sanction.

82 There is no disagreement as to what should be forfeited.

83 I now turn to a consideration of the differing perspectives of Crown and defence as I seek to navigate my way through those submissions to an appropriate conclusion.

84 Ms. Blok's main points in favour of holding the fines in this case for Sarah Kim to the statutory minimums relate to when her client first knew that **trafficking** in bear parts and wildlife meat was illegal and to the presence or not of a profit motive for her offending.

85 Starting with the knowledge of illegality, I begin with the state of Sarah Kim's knowledge and Ms. Blok's submission. Ms. Blok says, on behalf of Ms. Kim, that while it was clear by November 2014 that Sarah Kim knew what she was doing was illegal, the dealings that occurred a month before in the parking lot of Canadian Tire in Merritt do not conclusively show that she knew then of the illegality of her actions. Even if it is accepted that Sarah Kim did not know conclusively that **trafficking** in bear gall bladders and bear paws was illegal when she travelled to Merritt with her co-accused in October of 2014 to purchase them, I do not, with respect, believe that that should have any appreciable impact on sentencing.

86 The bulk of what is at issue here is what happened in November of 2014, December of 2014 and March of 2015, and there is no room for doubt that Sarah Kim knew what she was doing then — that is, **trafficking** both as a buyer and a seller — was against the law. I *will* say that it is difficult to believe that Sarah Kim did not know that what she was doing was of questionable legality when she travelled up to Merritt in October with her co-accused to buy bear parts from people she thought were hunters out of the back of a truck in a parking lot. That is not the way one deals above-board with the purchase of almost anything.

87 Sarah Kim's co-accused clearly knew then what they had embarked upon together was illegal. They rode up together to Merritt, a trip of several hours, and then entered into a transaction together with the undercover officers in plainly unusual circumstances. It must not be forgotten that Sarah Kim is a practitioner of a non-traditional form of Chinese medicine, a form of non-traditional medicine where bear parts feature as having therapeutic powers. It is difficult to imagine that being such a practitioner, Sarah Kim would not know that that aspect of the non-traditional medicine she practises cannot be practised in B.C. using product harvested in B.C., given the legal prohibitions regarding the harvesting of bears and then trading in their parts found in the *Wildlife Act* and *Regulations*.

88 Given what transpired in November, December and March, it is plain that knowing what she was doing was illegal did not cause Sarah Kim to desist from engaging in the illegal trade in bear parts and wildlife meat. That is to say, Sarah Kim's actions at the time when Ms. Blok acknowledges that she, Ms. Kim, was clear in her knowledge that what she was doing was against the law, were not materially different from her actions a month earlier when Ms. Blok says that there is nothing to prove to Sarah Kim knew then that what she was doing was contrary to law.

89 While it makes very little difference at the end of the day, given the point in the chronology where her state of knowledge about illegality is beyond doubt, I must say that the circumstances are strongly suggestive that at *all* material times, Sarah Kim clearly knew that **trafficking** in bear gall bladders, bear paws and wildlife meat was illegal.

90 I come to the pursuit of profit. This point raised by Ms. Blok in favour of Ms. Kim is a much more important one. Ms. Blok argues, on Sarah Kim's behalf, that there is nothing before me upon which I can properly conclude that Sarah Kim's actions in **trafficking** were motivated by the pursuit of profit. Insofar as a profit motive for engagement in illicit **trafficking** of the kind that Sarah Kim has admitted to is an aggravating factor, this issue does have significant implications for sentencing.

91 Much of Ms. Blok's submission relates to confusion and uncertainty regarding the \$1,000 quotation Sarah Kim gave to Det. Cst. G. for a course of treatment with bear bile-infused vodka. Ms. Blok is right to say, and indeed Crown counsel, Mr. MacAulay, concedes, that that aspect of things is less than clear. What was the whole course of treatment? How much bear bile would it have entailed? Was the \$1,000 reference to the cost of one bottle of bile-infused vodka or more or less? There are no ready answers to any of those questions on the material available to the court.

92 There do however remain the bare facts (which are uncontroverted) that Sarah Kim sold two shot glasses of bile-infused vodka to the undercover officer for \$100 and that she priced a full course of treatment at \$1,000. I consider that a \$100 price for a couple of shot glasses of a vodka-based liquid would be, on anyone's assessment, a significant price.

93 A course of treatment priced at \$1,000, whatever else can be said about it, is not an inexpensive course of treatment. Sarah Kim was and is a commercial operator, a healthcare practitioner who functioned and functions in the marketplace and seeks to earn profit through the application of her talents for the benefit of paying patients or customers. There is no basis for concluding that she did not expect to turn a profit on what she actually sold to Det. Cst. G. or that she did not expect to turn a profit on the course of treatment that she quoted to him.

94 Ms. Blok suggests the \$1,000 quotation was not a true measure of the course of treatment the undercover officer inquired about, but rather a figure that she gave intending to scare him off. The difficulty with that submission is that there is nothing before me to support it. Neither the Crown nor the defence called evidence or sought to call evidence as part of Sarah Kim's sentencing.

95 I do, however, have the uncontroverted assertion of fact before me that Sarah Kim quoted Det. Cst. G. \$1,000 for a course of treatment involving bear bile and that uncontroverted fact supports a reasonable inference that Sarah Kim would derive a profit, perhaps a handsome profit, from administering the course of treatment. To cast a different light on what, on its face, appears to be a simple and straightforward price quotation by suggesting that the \$1,000 figure was given to frighten the undercover officer away, there would have to be something — either evidence that the quotation was made *in terrorem* or an admission of that by the Crown to that effect. Here, I have neither. I must assess the offer in the context of everything else that is uncontroverted and before me by way of counsels' submissions.

96 These *indicia* of a profit motive are, in turn, substantiated by other *indicia* such as Sarah Kim's advice to undercover officers that she expected to use about five gall bladders per year. Then there is her advice upon learning that the undercover officers posing as hunters might be able to get up to 20 to 30 gall bladders in the spring, that she wanted to take them all.

97 Recall that the deer meat that Sarah Kim purchased in December came with joints in it. She had stipulated for that because of the medicinal properties that she believes the joints possess. These products were all delivered to her at the acupuncture and wellness clinic out of which Sarah Kim carries on business as a traditional Chinese medical practitioner.

98 For sentencing purposes, this all clearly points to a profit motive for **trafficking** in bear parts and wildlife meat.

Sentence

99 Taking into account all that I know about Sarah Kim's offending and the circumstances that surround it, and all that I know about her own personal circumstances, and everything that emerges about the legal principles and policies that have guided other judges in similar circumstances in sentencing offenders for **trafficking** in bear parts and wildlife meat, I have concluded that fines that are modestly higher than the statutory minimums here must be imposed upon Ms. Kim in order to give effect to those legal principles and policies.

100 While I acknowledge that the recently-raised statutory minimums are high enough to have considerable general deterrent force in and of themselves, in my judgment they still do not have enough general deterrent force to serve the ends of justice on the facts of this case. Sarah Kim's sentence must be proportionate to the gravity of her offending and the degree of her responsibility for her offending. Exploiting a protected resource for commercial gain is offending of some considerable gravity and Sarah Kim comes before the court in a state of high moral blameworthiness, in part because she was seeking profit from activity that she knew was illegal.

101 Sarah Kim was not just **trafficking** in one particular animal part. She has admitted to **trafficking** in bear gall bladders and bear paws and bear bile and deer meat and she had it in mind to expand the enterprise by purchasing all the bear parts her

suppliers could get for her, 20 to 30 gall bladders in the spring season. These factors set her case apart from the kind of case that can be said to be appropriate for sentencing according to statutory minimums.

102 I will say again that I have in mind (in particular but not solely) the concern with general deterrence and the profit motive that drove in part Sarah Kim's offending. The emphasis on general deterrence resonates throughout the cases. Environmental regulatory offences like the ones committed by Sarah Kim degrade our province's natural patrimony, the wildlife that belongs to all citizens collectively. That wildlife is faced with various kinds of pressures that affect their numbers and their viability. One source of that pressure is illicit harvesting for commercial gain.

103 It may perhaps be the case that a person in Sarah Kim's shoes who **trafficked** and had intentions to traffic in very small quantities of only one bear part in order to treat herself or perhaps her family for a short period could be adequately sanctioned by recourse to the statutory minimum sentences. But that is not the case before me. Sarah Kim's **trafficking** in bear gall bladders and other parts and in wildlife meat was principally a business venture. Others minded to embark on such business ventures which are pursued at the expense of protected elements within our natural world must be made to understand, through the device of sentences handed down in cases like this one and in other ways, that the sanctions courts will impose upon such offenders will be powerful enough, one hopes, to deter them from taking their first steps down the path that Sarah Kim has so unwisely chosen.

104 Curiously, the need for general deterrence is underscored in part by some of the letters of support that Sarah Kim received from fellow practitioners of non-traditional medicine. Those letters reveal a tragic lack of understanding of the law relating to offences under the *Wildlife Act*. Letters were written by practitioners, at least some of whom, like Sarah Kim, whose work involves prescribing practices that cannot be lawfully carried over to Canada from other countries where protections for wildlife available in Canada are not apparently in existence. Sentencing cases like this must be calibrated to raise the consciousness of those who are at increased risk of offending and deter them from yielding to the temptation to make a profit at the expense of our protected wildlife.

105 I wish to acknowledge that the fact that Sarah Kim has made a grievous error in entering into the shadowy world of **trafficking** in bear parts and wildlife meat for profit does not take away from the fact that in so many other respects, she is a person of generous qualities who contributes meaningfully to the lives of her family and her community. But she did make a grievous error in judgment in entering into that shadowy world and greed, in some measure, influenced her in doing so. So she is now answerable for her actions.

106 Ms. Sarah Kim, will you please stand? I sentence you to a fine of \$3,200 each on the seven counts for which you have entered pleas of guilty under Information 93858.

107

THE INTERPRETER: Sorry, Your Honour, did you say \$3,000...

108

THE COURT: \$3,200 each for the seven counts. That represents a total of \$22,400. That is a larger aggregate fine than what your counsel urged, namely, \$17,500. Counsel for the Crown urged a total in the range of \$20,000 to \$25,000. The fine that I have imposed upon you falls slightly below the midpoint of the range that counsel for the Crown urged upon the court.

109 I think it worth mentioning that what I have imposed falls *far* below the maximum of \$250,000 per count for an aggregate maximum of \$1.75 million for seven counts. Fines at that upper end of the spectrum are plainly intended to deal with much more egregious offending than that committed by Sarah Kim here, offending that would have involved unlawful conduct that is much more sophisticated, conducted on a much larger scale, involving much larger quantities of bear parts and wildlife meat, netting much larger profits and returns to the wrongdoer than exist here.

110 Fines of \$3,200 per count, or in the aggregate \$22,400, also, however, are intended to reflect the factors and considerations I have discussed in these reasons, including the aggravating factors that relate to Sarah Kim's planning and premeditation, her callous disregard for the consequences of her actions for the wildlife resource and the profit motive that actuated her offending.

111 While her actions do not bring her near to the maximum penalties available, neither can she properly be sanctioned in the way that a person might be who did not offend after careful planning but rather acted spontaneously and opportunistically. She cannot be sanctioned in the same way that another offender might be who is seeking only enough bear bile, for example, to treat his or her own ailments or that of a family member with no eye to profit. It is factors like those which, in a different case, might be invoked to justify sentencing an offender in accordance with the statutory minimums. But that is not the case before me.

112 The fines that I have imposed in the aggregate exceed the statutory minimums by \$4,900. I order, pursuant to [s. 84.1\(1\)\(e\) \(ii\) of the Wildlife Act](#) that that excess amount be designated for payment to the Habitat Conservation Trust Foundation for use in promoting the various conservation and biodiversity enhancing initiatives that are referred to in [s. 122\(1\) of the Wildlife Act](#).

113 There will be a forfeiture order with respect to the monies that changed hands between Sarah Kim and undercover officers in November 2014, December 2014 and March 2015.

114 I have no discretion to waive the victim fine surcharges on any of the seven counts but I will entertain submissions about time to pay.

(SUBMISSIONS BY COUNSEL)

115

THE COURT: I will say Friday, March 30th of 2018, then is the date by which the fines and the victim fine surcharges must be paid in full.

Order accordingly.