

STATEMENT OF STEVE McCREARY
on behalf of
NATIONAL ASSOCIATION OF MUSIC MERCHANTS
to the
SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR AFFAIRS
CONCERNING 2008 LACEY ACT AMENDMENTS
May 16, 2013

Mr. Chairman, members of the Subcommittee, I am Steve McCreary, General Manager of Collings Guitars, a medium-sized company located in Austin, TX. I am here today on behalf of NAMM, the National Association of Music Merchants. Headquartered in Carlsbad, CA, NAMM has more than 9,000 member companies around the world who make and sell a variety of musical instruments and accessories.

I appreciate the opportunity to be here today to share our industry's views on the 2008 amendments to the Lacey Act, one of our country's most important conservation laws.

Before I do, however, let me tell you a little bit about Collings Guitars, which started in the mid-1970's when Bill Collings began building guitars on his kitchen table with just a few hand tools. Descended from a family of engineers, Bill dropped out of college to pursue building guitars. A decade later, Bill was in Austin, building flattop and archtop guitars in his own small shop. As his reputation for outstanding quality and meticulous attention to detail quickly spread, Bill rented a 1,000-square foot space in 1989 and hired two helpers.

Today, Collings Guitars operates from a 27,000 square foot facility featuring technology that makes parts production more consistent, accurate and safe. Our approximately 90 employees produced more than 2,700 acoustic and electric guitars, mandolins and ukuleles last year. We sell through retailers in over 30 states and about 20% of our business is done outside of the U.S. We are proud that artists such as Lyle Lovett and Pete Townshend own many and perform with our instruments as do musicians in many other well-known bands

Despite our growth, handcrafting still plays a major part in our instrument production and we pay close attention to the type and sourcing of wood and other material used in our instruments. The spruce and maple used on the tops of many of our instruments come primarily from U.S. forests while other woods, used elsewhere in the instruments, come from many countries around the world.

With regard to the 2008 amendments to the Lacey Act, our company, NAMM and the music products industry are supportive of the goals of this law. While we know of no direct evidence which would indicate that passage of the amendments has resulted in a reduction in illegal logging, we are keenly aware that it is important to promote the legal and sustainable production and harvesting of the wood species which lend so much to the beauty and tonal quality of our instruments.

At Collings Guitars, we think we are in a better corporate position because of the 2008 amendments. We always thought we exercised due care in our procurement, but Lacey has led us to review our vendor compliance program, drop some suppliers and continue to deal with those who we believe share our integrity and commitment to legal and responsible procurement.

Nevertheless, we do have some concerns about how the 2008 amendments impact our business and our customers, both retailers and musicians.

First is the import declaration process. About forty percent of our woods come from outside the United States and for every shipment a document must be filed with the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture. We are importer of record for slightly less than half of our foreign wood and procure the rest from sources we believe are reputable suppliers.

Regardless of who brings in the shipment, however, customs brokers assist with the details involved in importing and while these brokers perform a valuable role in the supply chain, it does cost us money each time a Lacey import declaration is filed. As with filing export declarations for shell inlays, which are non-endangered species, these costs are generally passed on to our customers. We understand that APHIS is currently receiving some 40,000 declarations each month and processing these imposes a substantial cost and burden on the agency as well. Even a reported effort toward electronic filing will not substantially reduce our costs or those of the government.

There must be a more efficient way to accomplish this. We think that importers of covered products should be required to maintain records pertaining to what materials they import and where they get them from, and that such information should be available to enforcement agencies on request, but that documents should not have to be filed with every shipment. We think that is more cost-effective and would allow the government to focus on finding the “needle” of high-risk imports, without having to look at the entire “haystack” of all imports.

As I indicated, we think we have implemented and follow a due care process that will assure us of receiving only raw materials which comply with the Lacey Act’s requirements. However, because of the broad reach of Lacey to cover a myriad – and still undefined – array of foreign laws, it could still be possible for our company to come into possession of material with questionable provenance.

We and our industry colleagues have great concern that we could do everything right, have no actual or inferred knowledge of illegality, exercise required due care and yet end up having materials confiscated. For many in the industry, that could be a death blow. That’s

especially true for artisan luthiers – the way Bill Collings started out – as well as our wholesale and retail customers and working musicians.

We are certainly not arguing for a “get out of jail free card.” We simply think that the Lacey Act should provide for a process by which an alleged law violator can seek return of his raw materials or finished products in front of an independent party like an administrative or court judge.

Finally, the 2008 amendments should be modified to exempt, from all enforcement, raw materials or instruments which were imported or manufactured prior to the effective date of the law. I know that many of our company’s early instruments are still in use, and the same holds true for instruments made by other companies in our industry who have been in business far longer. Even instruments which are more than 100 years old are still being played today.

We understand that it is the government’s position that if these pre-2008 products are resold after 2008 they are subject to enforcement actions. Saying that such actions are not an enforcement priority does little to ease the concern of the music products industry and our customers. We would urge that the law be amended to exempt material harvested and products finished prior to May 22, 2008 from all aspects of the Lacey Act.

In conclusion, Mr. Chairman, we are supportive of the goals and objectives of the 2008 amendments to the Lacey Act. As with any law, we think there have been unintended consequences and we hope that what we regard as common sense proposals to modify the law will be favorably considered by the Congress.