

MENU 

A lawyer's commentary on cultural property law and its impact on cultural property crime, antiquities trafficking, looted archaeology, illicit trade, art theft, heritage preservation, and museum risk management.

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The Museum Raids Cases Revisited: Recalling the Southeast Asian Artifacts Seized and the Dealers Indicted

BY RICK ST. HILAIRE MAY 8, 2014

The recent [repatriations of Cambodian cultural objects](#) by [Sotheby's](#), [Christie's](#), [the Metropolitan Museum of Art](#), and [the Norton Simon Museum](#) have once again drawn public attention to at-risk Cambodian heritage. It has also reminded CHL of the ongoing California court cases involving Southeast Asian cultural objects. Six years ago, dramatic [police raids](#) on several museums sparked criminal prosecutions that now quietly crawl through the justice system. The silence in the years following the initial government-generated publicity should be no surprise given that authorities were dealt a blow when one of the arrested suspects, a scholar, [died in federal custody](#) in May 2008 after jail officials failed to respond to the inmate's health emergency.

The museum raids occurred on a morning in January 2008 when a troop of officers outfitted with agency alphabet jackets entered the [Los Angeles County Museum of Art](#), the Bowers Museum, the Pacific Asia Museum, and the Mingei Museum. The goal of the raids was to "seize in place" cultural objects identified in court authorized search warrants. The media covered the event and were permitted [access](#) to the contents of the warrant affidavits.

A five-year undercover investigation prompted the law enforcement sweep, but seemingly little happened afterwards, prompting the [Los Angeles Times](#) last year to write, "No museum officials or collectors involved in the Southern California probe have been indicted, and no seized objects have been returned to their countries."

Earlier this year, however, a federal district court unsealed the cases of *U.S. v. Jonathan Markell* and *U.S. v. Robert Olson* after the U.S. Attorney's Office for the Central District of California made an *ex parte* request to the court. The government's legal petition disclosed that a grand jury indicted both defendants on August 15, 2008. The petition explained that the criminal charge should be unsealed "for the purpose of formally initiating the prosecution of this case."

The unsealed indictment reveals that antiquities dealers Markell and Olson were charged with one count of conspiracy to "knowingly enter and introduce into the commerce of the United States imported merchandise, namely, Burmese

and Khmer antiquities, by means of materially false declarations and statements” and three counts of false statements concerning the entry of goods into the U.S.

It should be recalled that an indictment is simply a formal process that initiates a criminal proceeding. Defendants who are charged are always presumed innocent unless prosecutors prove guilt beyond a reasonable doubt. That should remain the presumption here.

In 2010, a grand jury handed up a seven count indictment against Jonathan Markell and his wife, Carolyn Markell, both owners of an antiquities gallery. The court unsealed the charging document in June 2011 at prosecutors’ request. The indictment alleges conspiracy to defraud, subscribing to false income tax return, wire fraud, and aiding and abetting. The most recent court summons schedules the defendants for a hearing in the matter later this month.

A grand jury indicted Olson once again in 2013, along with alleged exporter and co-conspirator Marc Pettibone. The indictment alleges conspiracy, aiding and abetting, smuggling, and receiving and transferring stolen property.

Because the 2008 Markell/Olson indictment has now been unsealed, we know its claims. The charging document reads that Markell and Olson allegedly would:

... travel to Thailand to purchase Burmese and Khmer antiquities, including marble, wooden, bronze, and lacquer Buddhas and Khmer bronze bells, that were over 100 years old (“the antiquities”).

... cause the purchased Buddhas to be described on purchase invoices and packing lists as “sitting man” or “reclining man” to conceal their true nature and character.

... cause the purchased Khmer bronze bells to be described on purchase invoices and packing lists as “bell,” “bell 12th,” “bronze bell,” and “stand (bell)” to conceal their true nature and character.

... cause the antiquities to be listed on purchase invoices at 25% of their true purchase price.

... provide to a customs broker the purchase invoices and packing lists containing false statements describing the antiquities.

... cause a customs broker, relying upon the purchase invoices and packing lists containing false statements, to prepare an Entry Summary and associated import documents that also contained similar false statements regarding the antiquities.

... cause a customs broker to file the Entry Summary and associated invoices, packing lists, and other shipping documents, that falsely described the antiquities, to be filed with the Department of Homeland Security, Customs and Border Protection, at the time of importation.

Meanwhile, the 2010 indictment against Jonathan and Carolyn Markell charge them both with a “donations package” plan whereby “falsely inflated” appraisal values would be secured for cultural objects donated to museums. The indictment reads, in part:

Beginning on a date unknown and continuing to at least in or about January 2008 ... [the] defendants and other unindicted co-conspirators, conspired and agreed with each other to knowingly and intentionally defraud the United States, for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of the Internal Revenue Service ... by promoting and participating in a false charitable deduction scheme for the purpose of improperly claiming charitable deductions on Federal income tax returns ...

The 2013 Olson/Pettibone indictment alleges that Pettibone purchased archaeological artifacts looted by diggers in Thailand and Cambodia, bribed Thai customs officials and filled out false paperwork to export the objects, affixed “made in Thailand” stickers to make ancient artifacts appear modern, and shipped both Thai and Cambodian archaeological material to Olson. It is alleged that Olson, in turn, stored the goods in warehouses located in California and then sold the merchandise in the U.S. and elsewhere.

The charging document points to alleged violations of the federal National Stolen

Property Act—predicated upon ownership interests maintained by Thai and Cambodian title vesting laws—and to a claimed smuggling conspiracy that allegedly skirted the Cultural Property Implementation Act’s import restrictions meant to outlaw endangered Cambodian archaeological material from entering the U.S. marketplace.

One fact sequence contained in the Olson/Pettibone indictment recites allegations focused on artifacts from Cambodia. These assertions, naturally, must be proved beyond a reasonable doubt by the prosecution:

On or about November 6, 2005, defendant OLSON sent money to defendant PETTIBONE for the purchase of swords and daggers looted from Cambodia.

On or about November 10, 2005, defendant OLSON received a shipment from defendant PETTIBONE in Thailand containing six metal swords and two metal daggers.

On or about November 10, 2005, defendant OLSON told the UCA [an undercover federal agent] that he had just received six swords and two daggers from a site in Cambodia. Defendant OLSON described the swords and daggers as being “pre-Khmer” and dating from 1,000 A.D. Defendant OLSON further told the UCA that he had the swords and daggers classified on United States Customs documents as “metal sticks,” and defendant OLSON offered to sell the swords and daggers to the UCA.

On or about November 16, 2005, defendant OLSON offered to sell the UCA the Cambodian swords and daggers received from defendant PETTIBONE on or about November 10, 2005. Defendant OLSON also told the UCA that an additional shipment of swords had been delayed because the shipper needed to avoid a new team of Thai Customs officials.

On or about November 17, 2005, defendant OLSON met the UCA at defendant OLSON’S storage lockers in Cerritos, California. During their meeting, defendant OLSON showed the UCA the six swords and two daggers shipped from Thailand by defendant PETTIBONE, and

defendant OLSON told the UCA he had purchased the antiques from defendant PETTIBONE.

The indictment indicates that descriptions of “gifts,” “metal sticks,” and “samples” were allegedly written on customs forms to mask the true contents of the shipments.

Of particular importance to this 2013 indictment is a forfeiture request. The government asks the court to forfeit “any and all property seized by law enforcement officers on or about January 24, 2008.” The warrant returns, which are the receipts listing all the objects the police seized, remain unavailable online. But it is known from the original warrant affidavits that many cultural objects were identified for seizure. Twenty-one objects were listed for the Mingei Museum, for example, including Ban Chiang pottery and Khmer objects.

A trial date has been set for January 27, 2015 in the cases of *U.S. v. Olson* and *U.S. v. Pettibone* as lawyers continue to pore over volumes of discovery material, including 150 CDs and 19,000 digital files.

The U.S. Attorney’s environmental crimes unit is spearheading the prosecution of the case.

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