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9

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,
13 Plaintiff,

14 v.

15 JONATHAN MARKELL, and
16 CAROLYN MARKELL,
17 Defendants.

No. CR 10-925-DDP
No. CR 08-975-DDP

GOVERNMENT'S CONSOLIDATED
SENTENCING POSITIONS FOR
DEFENDANTS JONATHAN AND CAROLYN
MARKELL

Hearing Date: December 14, 2015
Hearing Time: 1:30 p.m.
Location: Courtroom of the
Hon. Dean D.
Pregerson

19
20 Plaintiff United States of America, by and through its counsel
21 of record, the United States Attorney for the Central District of
22 California and Assistant United States Attorneys Joseph O. Johns and
23 Sharon McCaslin, hereby files its Consolidated Sentencing Positions
24 for defendants JONATHAN and CAROLYN MARKELL. This pleading
25 consolidates the government's sentencing positions for the single-
26 defendant antiquities smuggling case, United States v. Jonathan
27 Markell, et al. (Case No. CR-08-975-DDP), with the two-defendant tax
28

1 evasion conspiracy case, United States v. Jonathan and Carolyn
2 Markell (Case No. CR-10-925-DDP).

3 This pleading is based upon the attached memorandum of points
4 and authorities, the files and records in this case, along with such
5 further evidence and argument as the Court may permit or require
6 during the sentencing hearing.

7 Dated: December 2, 2015

Respectfully submitted,

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11
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2
3 I. INTRODUCTION

4 This consolidated sentencing position combines the government's
5 sentencing positions for two separate, but related cases. The first
6 case, United States v. Jonathan Markell and Robert Olson (Case No.
7 CR-08-975-DDP), involves allegations that defendant Jonathan Markell
8 conspired with co-defendant Robert Olson to import Burmese and Khmer
9 archeological resources ("antiquities") into the United States from
10 Southeast Asia by means of materially false declarations and
11 statements (the "antiquities smuggling scheme"). The second case,
12 United States v. Jonathan and Carolyn Markell (Case No. CR-10-925-
13 DDP), involves allegations that co-defendants Jonathan and Carolyn
14 Markell, along with other unindicted co-conspirators, conspired to
15 knowingly and intentionally defraud the United States by promoting
16 and participating in a false charitable deduction scheme for the
17 purpose of improperly claiming charitable deductions on Federal
18 income tax returns filed with the Internal Revenue Service (the "tax
19 evasion scheme"). Because the facts of each case are closely
20 related, and the Guidelines calculations for defendant Jonathan
21 Markell's participation in the tax evasion scheme impact the
22 Guidelines calculations for his participation in the antiquities
23 smuggling scheme (under a Guidelines analysis for "multiple
24 counts"), the government's sentencing positions for both cases are
25 consolidated herein.

26 II. SUMMARY OF THE GOVERNMENT'S POSITION

27 The government did not file any position with respect to the
28 presentence report ("PSR") for either defendant in either of the two

1 criminal cases because the government does not have any objections
2 to the factual findings or the Guidelines calculations set forth in
3 the PSRs. There are, however, key differences in the methods used
4 by the United States Probation Officer's ("USPO's") calculation of
5 the defendants' Guidelines sentencing ranges, and the methods used
6 by the parties in the defendants' respective plea agreements. These
7 differences will be discussed in more detail below.

8 The government acknowledges that the USPO's Guidelines
9 sentencing range ("GSR") calculation for each defendant is the most
10 accurate and correct approach for determining each defendant's GSR
11 by application of the United States Sentencing Guidelines ("USSG").
12 Nevertheless, the respectfully government requests that the Court
13 impose the sentences recommended below, which give effect to the
14 parties' negotiated plea agreements.

15 **A. DEFENDANT CAROLYN MARKELL**

16 The government requests that the Court sentence defendant
17 Carolyn Markell, in Case Number CR-10-925-DDP (the tax evasion
18 scheme), to a three year term of straight probation with no period
19 of imprisonment, community confinement, home detention, or
20 electronic monitoring. Pursuant to the parties' plea agreement, the
21 government requests that in lieu of the assessment of any criminal
22 fine, that the defendant be ordered to repatriate the "antiquities"
23 seized from her residential and business premises to the respective
24 countries of origin: China, Thailand, Cambodia, and Burma. The
25 lists of antiquities that must be repatriated are attached hereto as
26 Attachments 1 & 2 - and are similarly incorporated into defendant's
27 plea agreement. This repatriation obligation should be ordered
28 against both Jonathan and Carolyn Markell on a joint and several

1 liability basis. The parties estimate that the "repatriation costs"
2 will be at least \$25,000 - and could be substantially higher. The
3 specific terms and guidelines for the repatriation are set forth in
4 ¶ 4(h) of defendant's plea agreement, and incorporated herein as
5 Attachment 3. The government requests that these repatriation terms
6 and guidelines be specifically incorporated into defendant's
7 Judgment and Commitment Order as part of her terms and conditions of
8 probation.

9 In addition to a mandatory special assessment of \$100, the
10 government also requests that defendant Carolyn Markell be ordered
11 to cooperate with the Internal Revenue Service ("IRS") in the
12 determination of defendant's tax liability for the years 2004
13 through 2007, and to promptly pay all additional taxes and all
14 penalties and interest, as required by her plea agreement and the
15 mandatory restitution provisions of 18 U.S.C. § 3663A. See
16 Defendant Carolyn Markell's Plea Agreement, ¶ 4(i). The specific
17 obligation to which defendant has already agreed to in her plea
18 agreement is set forth in Attachment 4 to this position. The PSR
19 indicates that this mandatory tax liability "restitution" amount is
20 currently \$39,891. See Defendant Carolyn Markell's PSR, ¶ 230.¹

21 The government defers to the judgment of this Court as to
22 which, if any, of the Court's standard probationary terms and
23 conditions should also be incorporated into defendant Carolyn
24 Markell's sentence.

25
26
27 ¹ The government will provide the Court and defense counsel with
28 an updated, or corrected tax liability restitution amount on or
before the date of sentencing.

1 B. DEFENDANT JONATHAN MARKELL

2 1. Case Number CR-10-925-DDP

3 With respect to Case Number CR-10-925-DDP (the tax evasion
4 scheme), the government respectfully requests that defendant
5 Jonathan Markell receive the same sentence recommended above for co-
6 defendant Carolyn Markell.

7 2. Case Number CR-08-975-DDP

8 With respect to Case Number CR-08-975-DDP (the antiquities
9 smuggling scheme), the government respectfully requests that
10 defendant Jonathan Markell be sentenced to a term of 30 months in
11 prison, a special assessment of \$100, a one year term of supervised
12 release, and in lieu of a criminal fine -- imposition of the same
13 antiquities repatriation terms requested for both defendants above
14 in Case Number CR-10-925-DDP.

15 III. FACTUAL BACKGROUND

16 The Offense Conduct sections of each defendant's PSR provide
17 the Court with excellent and accurate synopses of the factual
18 background for both the tax evasion scheme and the antiquities
19 smuggling scheme. See Defendant Carolyn Markell's PSR ("Def. CM
20 PSR", ¶¶ 17-57; see also Defendant Jonathan Markell's PSR ("Def. JM
21 PSR"), ¶¶ 28-120. In short, Jonathan and Carolyn Markell jointly
22 owned and operated the business Markell Imports, Inc., doing
23 business as the Silk Roads Design Gallery ("Silk Roads"). See Def.
24 CM PSR, ¶ 18; and see Def. JM PSR, ¶ 29. The Markells' business
25 model consisted of their purchase and importation of art, antiques,
26 and archeological resources from Southeast Asia, and their resale of
27 such merchandise through their Silk Roads art gallery in West
28 Hollywood.

1 Part of their business model included the intentional use of
2 false declarations and statements in United States Customs entry
3 documents to "smuggle" or introduce the archeological resources
4 "antiquities" into the United States. Following the execution of a
5 search warrant at their residence and gallery on January 24, 2008,
6 both Jonathan and Carolyn Markell submitted to a joint interview by
7 law enforcement officers. See Def. CM PSR, ¶ 60; see also Def. JM
8 PSR, ¶ 125. During the interview, Jonathan Markell stated that he
9 and Carolyn Markell falsified the customs documents to disguise what
10 they were importing because the United States Immigration and
11 Customs Enforcement classification process is difficult if they
12 actually identify a piece as an "antique." See Def. CM PSR, ¶ 66;
13 see also Def. JM PSR, ¶ 131. Carolyn Markell agreed with her
14 husband's statement. Id. The Markells further justified their
15 behavior by claiming that United States Customs forces people to lie
16 on import declarations because of the delay in clearing Customs if
17 they properly identify an object as an antique. Id.

18 Despite the damning nature of these admissions, Jonathan
19 Markell and Carolyn Markell did not admit the full extent of their
20 criminal conduct and intent. For example, they did not admit that
21 Jonathan Markell had conspired with co-defendant Robert Olson to not
22 only falsely describe Burmese and Khmer antiquities in United States
23 Customs import documents (see above admissions), but also to falsely
24 declare the import value of those antiquities as 25% of their true
25 purchase price. See Def. JM PSR, ¶¶ 52, 58, 62, and 65. Moreover,
26 neither Carolyn or Jonathan Markell admitted to the interviewing
27 agents that they knew that it was illegal to export archeological
28 resources/antiquities from the countries of China, Thailand, and

1 Burma - which is most likely the reason that the antiquities were
2 falsely described in United States Customs import documentation.
3 See, e.g., Def. CM PSR, ¶¶ 89, 95, 98-101; see also, e.g., Def. JM
4 PSR, ¶¶ 72, 75-78.

5 The Markells' tax evasion scheme was heavily dependent upon the
6 ready availability of Southeast Asian antiquities obtained by
7 defendant Jonathan Markell, Carolyn Markell, and other co-
8 conspirators through the antiquities smuggling scheme and related,
9 relevant conduct. The Southeast Asian antiquities smuggled into the
10 United States by Jonathan Markell and others, were bundled and sold
11 for approximately \$1,500. They \$1,500 "package" typically included
12 antiquities from Ban Chiang, Thailand, false sales invoices to
13 reflect an earlier sales date, along with a fraudulently inflated
14 \$5,000 appraisal that contained a fraudulent expert's signature.
15 See Def. CM PSR, ¶¶ 20, 28, 35, 37, 40-49; see also Def. JM PSR, ¶¶
16 83, 91, 98, 100, 103-112.

17 The importance of these unchallenged facts, is that defendants
18 Jonathan and Carolyn Markell's business model was predicated on the
19 looting of archeological resources from Southeast Asia, followed by
20 the smuggling of those archeological resources into the United
21 States for resale as legitimized "art objects." The defendants'
22 criminal behavior was not accidental, inadvertent, negligent, or
23 merely reckless. Instead, their crimes were committed with a
24 calculated, clear-eyed, dispassionate, intentional willfulness, a
25 complete disdain for the law, and coupled with a full understanding
26 of the consequences of being caught.

27 One illustration of Jonathan and Carolyn Markell's complete
28 contempt for this Nation's rule of law is encapsulated in defendant

1 Carolyn Markell's discussion of the International Emergency Economic
2 Powers Act ("IEEPA") Burmese sanctions with the undercover agent
3 ("UC") in this case. During that discussion, she told the UC that
4 she had been extremely worried about the last shipment of
5 antiquities that she and Jonathan Markell had brought into the
6 United States from Thailand in September 2006 - which had included
7 Burmese statues. She related to the UC that the President of the
8 United States had prohibited entry of any Burmese items into the
9 country, and that she had lost sleep worrying that their import
10 shipment would be intercepted by United States Customs authorities.
11 She told the UC that she did not care about being dishonest, but
12 that she didn't want to get caught. See Def. JM PSR, ¶ 77.

13 Another example of the Markells' contempt for the rule of law
14 is the March 20, 2007 conversation that defendant Jonathan Markell
15 had with the UC in this case. During that conversation, the UC
16 brought up a Los Angeles Daily News article about an individual that
17 had been prosecuted for a tax evasion scheme involving antiquities
18 and a museum. Jonathan Markell laughed about the article, and then
19 asked the UC if he thought that he (Jonathan Markell) was going to
20 jail (for the tax evasion scheme). Jonathan Markell told the UC
21 that the person who had been caught must have done something pretty
22 stupid, and that the government was not going to look at any
23 donation under \$10,000. See Def. JM PSR, ¶ 124.

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IV. THE FALSE CHARITABLE DEDUCTION/TAX EVASION SCHEME

A. THE GUIDELINES CALCULATION FOR DEFENDANT CAROLYN MARKELL

Defendant Carolyn Markell's PSR identifies several key discrepancies between the applications of the Guidelines in her plea agreement and the PSR itself. The discrepancies are as follows:

1. Use of U.S.S.G. §§ 2T2.1 and 2T4.1 in the plea agreement, versus use of U.S.S.G. §§ 2T1.9 and 2T4.1 in the PSR;²

2. Determining the tax loss to be less than \$5,000 in the plea agreement, versus determining the tax loss to be \$14,530;³ and

3. Inclusion of a two level increase for "conduct intended to encourage persons other than or in addition to conspirators to violate the internal revenue laws or impede, impair, obstruct, or defeat the ascertainment, computation, assessment, or collection of revenue," pursuant to U.S.S.G. § 2T1.9(b)(2) in the PSR,⁴ versus no two level increase for such conduct in the plea agreement.

These discrepancies in the application of the Guidelines, and the determination of the tax loss, account for the difference between the plea agreement's total offense level of 6, and the PSR's total offense level of 12.

The government concedes that the USPO's determination of the tax loss and application of the Guidelines is the correct approach, but respectfully requests that the Court sentence defendant Carolyn Markell in accordance with the parties' plea agreement. The majority of the difference between the plea agreement Guidelines Sentencing (0-6 months) Range and the PSR Guidelines Sentencing

² See Def. CM PSR, ¶¶ 73-76.

³ See Def. CM PSR, ¶¶ 78-79.

⁴ See Def. CM PSR, ¶ 81.

Range (10-16 months) is driven by the parties' stipulation that the tax loss was less than \$5,000 - thus resulting in a Base Offense Level of 8 (without regard to use of U.S.S.G. § 2T2.1 or § 2T1.9, since both sections cross-reference to the tax loss table at Section 2T4.1). The PSR for defendant Carolyn Markell correctly states the total tax loss from the tax evasion scheme at paragraphs 53-57. In its alternative calculation, the government included only those years with a tax loss that were within six years of the 2010 indictment date.⁵ The government then determined the tax loss to be \$5,125 as follows:

Tax Loss for Jonathan and Carolyn Markell

Tax Year 2003: \$788

Tax Year 2004: \$490

Tax Year 2005: \$2,461

Tax Loss for the Schore's

Tax Year 2006: \$1,386

Total Tax Loss within Six Years of 2010 Indictment: \$5,125⁶

The Guidelines Tax Table set forth at Section 2T4.1 provides an offense level of 8 for a tax loss between \$2,000 and \$5,000. The Tax Table provides for an offense level of 10 for a tax loss between \$5,000 and \$12,500. Given that the government determined the tax loss within six years of the indictment date to be \$5,125, the government opted for an offense level 8, rather than "bumping" the

⁵ The government chose this delimiter, rather than the standard all-inclusive "relevant conduct" delimiter, because the statute of limitations for a tax evasion crime is six years, as per 26 U.S.C. § 6531(2).

⁶ See Def. CM PSR, ¶¶ 53-57 for comparison to PSR tax loss determination.

1 offense level up another two levels because the tax loss was only
2 \$125 over the Section 2T4.1(B) \$5,000 upper threshold.

3 **B. 18 U.S.C. § 3553 SENTENCING FACTORS FOR DEFENDANT CAROLYN**
4 **MARKELL**

5 The government respectfully requests that the Court determine
6 defendant Carolyn Markell's GSR in accordance with the parties' plea
7 agreement, even though the government has acknowledged that the
8 parties application of the Guidelines was "faulty." In the
9 alternative, should the Court determine defendant Carolyn Markell's
10 GSR in accordance with the PSR, the government respectfully requests
11 that the Court impose or grant a four level Booker variance,
12 pursuant to the 18 U.S.C. § 3553(a) sentencing factors, on the basis
13 that a term of imprisonment for Carolyn Markell is a sentence
14 greater than necessary to accomplish the Section 3553(a) sentencing
15 purposes.

16 **C. THE GUIDELINES CALCULATION FOR DEFENDANT JONATHAN MARKELL**

17 The government's sentencing position for defendant Jonathan
18 Markell's role in the tax evasion scheme is the same as its position
19 with respect to co-defendant Carolyn Markell. The government would
20 note that if the Court determines Jonathan Markell's total offense
21 level for the tax evasion scheme to be 6 (in accord with his plea
22 agreement), the tax evasion scheme Guidelines calculation has no
23 "multiple counts" impact on the determination of his total offense
24 level for the antiquities smuggling scheme, because the offense
25 level of the tax evasion scheme is 9 or more levels less than his
26 antiquities smuggling scheme total offense level - and is therefore
27 "disregarded" as per U.S.S.G. § 3D1.4(c).
28

1 D. 18 U.S.C. § 3553 SENTENCING FACTORS FOR JONATHAN MARKELL

2 The government's application of the 18 U.S.C. § 3553 sentencing
3 factors for Jonathan Markell's involvement in the tax evasion scheme
4 is the same as its position for co-defendant Carolyn Markell set
5 forth above.

6 V. THE ANTIQUITIES SMUGGLING SCHEME

7 A. THE GUIDELINES CALCULATION FOR DEFENDANT JONATHAN MARKELL

8 The parties determined defendant Jonathan Markell's total
9 offense level for the antiquities smuggling scheme, Case Number CR-
10 08-975-DDP, to be 21, with a GSR of 37-46 months. The USPO
11 determined his total offense level in the PSR to be 20, with a
12 resulting GSR of 33-41 months. There are two reasons for the
13 discrepancy between the sentencing recommendation of the parties'
14 plea agreement and that of the USPO's PSR.

- 15 1. Defendant should not receive a two level increase to
16 his offense level for a pattern of misconduct
involving a cultural heritage resource

17 The first reason is that the plea agreement includes a two
18 level increase to Jonathan Markell's offense level for a "pattern of
19 misconduct involving cultural heritage resources," pursuant to
20 U.S.S.G. § 2B1.15(b)(5); whereas, the PSR determined that all,
21 separate instances of offense conduct involving a cultural heritage
22 resource occurred within, not outside of, the course of defendant's
23 instant "conspiracy" offense. See Def. JM PSR, ¶ 145. Upon
24 consideration of the USPO's analysis of this issue within the PSR,
25 the government concludes that the USPO and the PSR are correct -
26 defendant Jonathan Markell should not receive a two level increase
27 to his offense level for a "pattern of misconduct involving cultural
28 heritage resources," pursuant to U.S.S.G. § 2B1.15(b)(5). As a

1 result, defendant Jonathan Markell's total offense level should be
2 19, with a resulting GSR of 30-37 months.

3 2. Multiple counts analysis - defendant should not
4 receive a one level increase for the tax evasion case
5 under a multiple counts analysis

6 The second reason for the discrepancy between defendant
7 Jonathan Markell's total offense level in the plea agreement and the
8 PSR is due to the parties' and the USPO's multiple counts analysis.
9 As stated above in Section IV.A., which discusses defendant Carolyn
10 Markell's appropriate total offense level and sentence for the tax
11 evasion scheme, the government determined Carolyn and Jonathan
12 Markell's total offense level for the tax evasion scheme to be 6.

13 Under the Guidelines multiple counts analysis, the Court must
14 first determine whether or not all of a defendant's counts of
15 conviction group together into separate groups of closely related
16 counts. The PSR has correctly divided defendant Jonathan Markell's
17 conviction for the tax evasion scheme (Case Number CR-10-925-DDP)
18 into a different "group" than the antiquities smuggling scheme
19 conviction (Case Number CR-08-975-DDP). See Def. JM PSR, ¶¶ 136-
20 138; and see U.S.S.G. §§ 3D1.1(a)(1) and 3D1.2. The second step
21 requires the Court to determine the adjusted offense level for each
22 of the count groupings. See Def. JM PSR, ¶¶ 149-162; and see
23 U.S.S.G. §§ 3D1.1(a)(2) and 3D1.3. The third step requires the
24 Court to determine the combined offense level applicable to all of
25 the groups taken together, applying U.S.S.G. § 3D1.4. See U.S.S.G.
26 § 3D1.1(a)(3).

27 According to Section 3D1.4, the combined offense level is then
28 determined by taking the offense level applicable to the group with
the highest offense level (the antiquities smuggling scheme), and

1 increasing that offense level by the amount indicated in the table
2 set forth in Section 3D1.4. In this instance, the government
3 requests that the Court determine defendant Jonathan Markell's
4 highest offense level group (the antiquities smuggling scheme) to be
5 an adjusted offense level of 19, and the other offense level group
6 (the tax evasion scheme) to be six. As a consequence of these two
7 group offense level calculations, because the tax evasion scheme
8 group is nine or more levels "less" than the antiquities smuggling
9 scheme offense level of 19, the tax evasion scheme group is to be
10 disregarded and has no impact on the calculation of Jonathan
11 Markell's Guidelines total offense level for the combined offense
12 calculation. See U.S.S.G. § 3D1.4(c).

13 The PSR reached a different conclusion. Because the USPO
14 determined the offense level for the tax evasion scheme to be 12,
15 defendant Jonathan Markell's antiquities smuggling scheme offense
16 level of 19 was adjusted upward one level, pursuant to Section
17 3D1.4(b). See Def. JM PSR, ¶¶ 163-170.

18 The government respectfully requests that the Court adopt its
19 multiple counts calculation predicated on an offense level of six
20 for defendant Jonathan Markell's role in the tax evasion scheme and
21 an offense level of 19 for his role in the antiquities smuggling
22 scheme. This results in a final total offense level of 19, with a
23 GSR of 30-37 months for both of Jonathan Markell's criminal
24 convictions.

25 Pursuant to its plea agreement obligations, the government
26 recommends that the Court sentence defendant Jonathan Markell to a
27 term of 30 months in prison, a one year term of supervised release,
28 repatriation of the antiquities to their countries of origin, a \$100

1 special assessment, along with any other terms and conditions of
2 release that the Court determines to be appropriate.

3 B. 18 U.S.C. § 3553 SENTENCING FACTORS FOR JONATHAN MARKELL

4 The government submits that the sentencing purposes set forth
5 in 18 U.S.C. § 3553(a)(1) and (2) support imposition of a 30 month
6 sentence of imprisonment for defendant Jonathan Markell.

7 1. The nature and circumstances of the offense

8 There are two types of archeological resource looters: (1) the
9 looter that digs up and collects artifacts as a hobby for his or her
10 own personal collection; and (2) the looter that digs up artifacts
11 for the purpose of selling them to brokers or gallery operators. As
12 with the protection of threatened and endangered wildlife species,
13 the key to protecting and conserving archeological resources is to
14 eliminate markets for illicit/looted antiquities. Without the
15 existence of brokers, middlemen, and gallery owners who are willing
16 to knowingly and intentionally profit from sales of parts and
17 products of threatened or endangered wildlife species or looted
18 archeological resources, there is little monetary incentive for
19 wildlife poachers or archeological resource looters to engage in
20 their nefarious trades.

21 One might be tempted to think that the archeological resource
22 looter squatting in the deep mud and steaming jungle highlands of
23 Ban Chiang, Thailand is primarily to blame for the devastation of
24 pristine archeological sites and the information lost thereby - just
25 as one might be tempted to lay the bulk of the blame for the loss of
26 the last Northern White Rhinoceros at the feet of the poacher who
27 killed it; but that line of thinking is incorrect. It is
28 individuals such as Jonathan Markell ... the importers, the buyers,

1 and the gallery owners who purchase and acquire such archeological
2 resources or wildlife products for profitable resale who are
3 primarily to blame for the underlying devastation. For these are
4 the individuals who create the markets that create the monetary
5 incentives that drive the poachers and looters into the fields.

6 Defendant Jonathan Markell and his co-conspirators purchased
7 stolen and looted antiquities from the Southeast Asian countries of
8 China, Burma, Thailand, and Cambodia and smuggled them into the
9 United States over an extensive period of time. Some of these
10 antiquities were stolen from Burma and knowingly smuggled into the
11 United States by Jonathan Markell and his co-conspirators in
12 violation of the Burmese economic sanctions, and others were looted
13 and stolen from the United Nations Educational, Scientific, and
14 Educational Organization ("UNESCO") designated World Heritage Site
15 in Ban Chiang, Thailand. See Def. JM PSR, ¶¶ 77, 142. The Ban
16 Chiang World Heritage site dates from 1495 BC and is considered the
17 most important prehistoric settlement so far discovered in Southeast
18 Asia. See Def. JM PSR, ¶ 142.

19 The government submits that defendant Jonathan Markell's
20 antiquities smuggling conduct was a serious offense, with
21 potentially wide ranging implications that touch upon multiple
22 countries. As such, the nature and circumstances of his offense
23 support a 30 month sentence of imprisonment and a Court-ordered
24 repatriation of the antiquities (at his expense) to their countries
25 of origin.

- 1 2. The need for the sentence imposed to reflect the
2 seriousness of the offense, to promote respect for
3 the law, and to provide just punishment for the
4 offense

5 Given the nature of the offense discussed immediately above,
6 which underscores the seriousness of the offense, the government
7 submits that a 30 month term of imprisonment is necessary to reflect
8 that seriousness and to promote respect for the law and to provide
9 just punishment for the offense.

10 Archeological resources are non-renewable. The looting of
11 archeological resources causes widespread destruction of
12 archeological sites and results in the loss of archeological
13 information which would be gleaned from a properly excavated site.
14 Many villages throughout Southeast Asia have been deprived of the
15 opportunity to grow an economy based on archeological tourism
16 because their heritage and archeological resources have been
17 devastated by looting activity to supply to the purveyors of "stolen
18 time," such as defendant Jonathan Markell.

19 UNESCO World Heritage sites, such as Ban Chiang, Thailand, are
20 particularly important from an archeological standpoint. Not only
21 does protection of such sites preserve the history and identity of
22 the Thai (and other) peoples, but it also protects one of the
23 cradles of civilization in Southeast Asia for future study and
24 understanding. There is an ever increasing awareness and interest
25 by the Thai people in their archeological resources and history as
26 they become a more educated, developed, and affluent society and
27 nation. Thai archeologists and employees within the Thai Fine Arts
28 Department (charged with protecting archeological resources) are

1 also ever increasing their efforts to protect and preserve the rich
2 Thai cultural heritage.

3 Criminal conduct, like that committed by defendant Jonathan
4 Markell in this case, serves to deprive individuals from other
5 countries of their own distinctive histories and heritages - in
6 essence stealing not just their antiquities, but their "time" and
7 history.⁷ Given the information gleaned from the PSR, and referenced
8 above in Section II. Factual Background, it is clear that Jonathan
9 Markell has no respect for the law - not this nation's laws, nor
10 those of other nations. A 30 month term of imprisonment is not only
11 a sure measure to promote respect for these important conservation
12 laws, but also to provide adequate punishment for these serious
13 offenses.

14 3. The need for the sentence imposed to afford adequate
15 deterrence to criminal conduct

16 As noted above, it is rare that law enforcement officials have
17 the opportunity to catch a broker, bulk sellers, or gallery owner
18 that drives the illicit market for archeological resources.
19 Defendant Jonathan Markell's antiquities smuggling case presents a
20 unique opportunity to send a message and afford adequate deterrence
21 to the "upper end" of the criminal black market for looted
22 archeological resources, i.e., the brokers and gallery owners who

23 ⁷ The government will submit a Declaration of Dr. Joyce White
24 regarding these points and concerns. Dr. White is an American
25 archaeologist, an adjunct associate professor at the University of
26 Pennsylvania, and executive director of the new Institute for
27 Southeast Asian Archaeology. Her research primarily concerns
28 decades-long multidisciplinary archaeological investigations in
Thailand and Laos covering the prehistoric human occupation of the
middle reaches of the Mekong River Basin. She is considered the
world's leading expert on the UNESCO World Heritage Site of Ban
Chiang, Thailand, and directs an archaeological fieldwork program in
the Luang Prabang Province of Laos

1 sell their wares to the collectors. If we are able to diminish and
2 disincentivize the market (or demand) for illegal antiquities, then
3 we may have an equal effect on taking the monetary incentives out of
4 the act of looting itself. It is the market, or demand, which
5 drives the looters at the ground level to provide the supply of
6 stolen antiquities to meet that demand.

7 The government respectfully submits that the need for the
8 sentence to afford adequate deterrence to criminal conduct by other
9 antiquities brokers and gallery owners is enough, on its own, to
10 support a 30 month sentence for Jonathan Markell.

11 VI. REPATRIATION OF SMUGGLED ANTIQUITIES

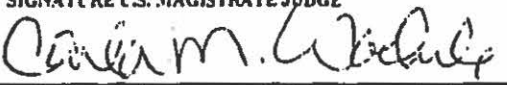
12 The plea agreement term that requires defendants Carolyn and
13 Jonathan Markell repatriate the antiquities seized from their
14 residence and business in this case, is a core element in ensuring
15 that justice is achieved in this case. For that reason, the
16 government respectfully requests that this Court incorporate the
17 "repatriation" terms and conditions from each defendant's respective
18 plea agreements into the Court's final judgment and commitment
19 order.

20 VII. CONCLUSION

21 For the foregoing reasons, the government respectfully requests
22 that the Court sentence defendant Carolyn Markell to a term of
23 straight probation for her conviction on the tax evasion scheme in
24 Case Number CR-10-925-DDP. The government also requests that the
25 Court impose a special assessment of \$100, the antiquities
26 repatriation requirement set forth in Attachments 1, 2, and 3 to
27 this pleading, and the tax restitution requirement set forth in
28 Attachment 4 to this pleading.

1 For the foregoing reasons, the government also respectfully
2 requests that the Court sentence defendant Jonathan Markell to a 30
3 month term of imprisonment for his conviction on Count One of Case
4 Number CR-08-975-DDP, and a term of straight probation for his
5 conviction on the tax evasion scheme in Case Number CR-10-925-DDP.
6 The government also requests that the Court impose a special
7 assessment of \$200 (for the two felony convictions), the antiquities
8 repatriation requirement set forth in Attachments 1, 2, and 3 to
9 this pleading, and the tax restitution requirement set forth in
10 Attachment 4 to this pleading.

ATTACHMENT 1

UNITED STATES DISTRICT COURT	CENTRAL DISTRICT OF CALIFORNIA ORIGINAL	
UNITED STATES OF AMERICA v.	DOCKET NO. 08-0098M	MAGISTRATE'S CASE NO.
THE PREMISES KNOWN AS: 245 South Irving Blvd. Los Angeles, California 90004	TO: ANY SPECIAL AGENT OF INTERNAL REVENUE SERVICE, IMMIGRATION AND CUSTOMS ENFORCEMENT, NATIONAL PARK SERVICE OR ANY OTHER AUTHORIZED	
<p>Affidavit(s) having been made before me by the below-named affiant that he/she has reason to believe that on the premises known as SEE ATTACHMENT A AND ATTACHMENT C</p> <p style="text-align: center;">NOTE CHANGES MADE BY THE COURT.</p> <p style="text-align: center;">in the Central District of California</p> <p>there is now being concealed certain property, namely: SEE ATTACHMENT B</p> <p>and as I am satisfied that there is probable cause to believe that the property so described is being concealed on the person or premises above-described and the grounds for application for issuance of the search warrant exist as stated in the supporting affidavit(s), which are incorporated herein by reference and attached hereto.</p> <p>YOU ARE HEREBY COMMANDED to search on or before <u>ten (10) days</u> (not to exceed 10 days) the person or place named above for the property specified, serving this warrant and making the search (in the daytime-6:00 A.M. to 10:00 P.M.) and if the property be found there to seize it, leaving a copy of this warrant and receipt for the property taken, and prepare a written inventory of the property seized and promptly return this warrant to <u>the duty U.S. Magistrate Judge</u> as required by law.</p>		
NAME OF AFFIANT BONNY L. MacKENZIE	SIGNATURE U.S. MAGISTRATE JUDGE 	DATE/TIME ISSUED <u>6:20pm</u> January 19, 2008

a search is to be authorized "at any time in the day or night" pursuant to Federal Rules of Criminal Procedure Rule 41(c), show reasonable cause therefor.

**United States Judge or Judge of a State Court of Record.

SMC:rjc

lmc

RETURN

DATE WARRANT RECEIVED

January 23, 2008

DATE AND TIME WARRANT EXECUTED

January 24, 2008 6:30AM

COPY OF WARRANT AND RECEIPT
FOR ITEMS LEFT WITH

Longman & Co. Markell

INVENTORY MADE IN THE PRESENCE OF

Cari Markell

INVENTORY OF PROPERTY TAKEN PURSUANT TO THE WARRANT

See attached.

CERTIFICATION

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

B Maczura

Subscribed, sworn to, and returned before me this date.

U.S. JUDGE OR MAGISTRATE

DATE

4/24/08

Inventory Listing of All Items Seized at Search Warrant Site

Site Name:
JM1
245 S. Irving Boulevard
Los Angeles, CA 90004.

Investigation Number:
950630127
Starting Date and Time:
01/24/2008 06:05 AM
Ending Date and Time:
01/24/2008 03:00 PM

Report Date:
Wednesday, April 23, 2008

Control #:	1	Evidence Box:	1
Location:	Master Bedroom	Locator Code:	JM1-N
Found:	On Trunk at foot of bed		
Description:	Seized Per Warrant	Appears to be Asian Art Book Catalogue Appears to be Consigned Items Sales Book	
Control #:	2	Evidence Box:	1
Location:	Office	Locator Code:	JM1-O-1
Found:	In Filing Cabinet		
Description:	Seized Per Warrant	Business card with Ban Cherang written on it United States Passport for Carolyn Markell United States Passport for Jonathan Markell	
Control #:	3	Evidence Box:	1
Location:	Master Bedroom	Locator Code:	JM1-N-2
Found:	On top of nightstand closest to N-2		
Description:	Seized Per Warrant	Appears to be phone slips regarding acquisition of Ban Chiang artifacts & Burmese items	
Control #:	4	Evidence Box:	2
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant	Appears to be Ban Chiang (2 Vases) per Robert and Soi	
Control #:	5	Evidence Box:	3
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant	Appears to be Ban Chiang (2 small vases) per Robert and Soi	
Control #:	6	Evidence Box:	4
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant	Appears to be Ban Chiang (2 small vases) per Robert and Soi	

Control #:	7	Evidence Box:	5
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (2 Vases) per Robert and Soi		
Control #:	8	Evidence Box:	6
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (2 Vases) per Robert and Soi		
Control #:	9	Evidence Box:	7
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (2 Vases) per Robert and Soi		
Control #:	10	Evidence Box:	8
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (3 small Vases) per Robert and Soi		
Control #:	11	Evidence Box:	9
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (3 small Vases) per Robert and Soi		
Control #:	12	Evidence Box:	10
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (3 small Vases) per Robert and Soi		
Control #:	13	Evidence Box:	11
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (3 small Vases) per Robert and Soi		
Control #:	14	Evidence Box:	12
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (3 small vases) per Robert and Soi		

Control #:	15	Evidence Box:	13
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (1 large vase) per Robert and Soi		
Control #:	16	Evidence Box:	14
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (1 large vase) per Robert and Soi		
Control #:	17	Evidence Box:	15
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (1 large vase) per Robert and Soi		
Control #:	18	Evidence Box:	16
Location:	Living Room	Locator Code:	JM1-I
Found:	In corner in front of hutch		
Description:	Seized Per Warrant Appears to be Ban Chiang (1 large vase) per Robert and Soi		
Control #:	19	Evidence Box:	17
Location:	Living Room	Locator Code:	JM1-I
Found:	In corner in front of hutch		
Description:	Seized Per Warrant Appears to be Ban Chiang (1 large vase) per Robert and Soi		
Control #:	20	Evidence Box:	18
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (various small artifacts to include but not limited to spear heads, bracelets, impression molds, etc.) per Robert and Soi		
Control #:	21	Evidence Box:	1
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be photos of Ban Chiang artifacts per Robert and Soi		
Control #:	22	Evidence Box:	1
Location:	Son's Bedroom	Locator Code:	JM1-K
Found:	In Room		
Description:	Seized Per Warrant Appears to be slide photos of SE Asian travel and site photos per Soi and Robert		

Control #:	23	Evidence Box:	1
Location:	Basement	Locator Code:	JM1-D
Found:	In file cabinet, 4 drawer lateral		
Description:	Seized Per Warrant File Bobbyo-Ban Chang, 2001, 1999 and 2002 Form 1040s		
Control #:	24	Evidence Box:	19
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (Various spear heads and axe heads) per Robert and Soi		
Control #:	25	Evidence Box:	20
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (2 vases) per Robert and Soi		
Control #:	26	Evidence Box:	21
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (various artifacts to include, but not limited to bracelets with bone, bowl, spear head, etc.) per Robert and Soi		
Control #:	27	Evidence Box:	1
Location:	Office	Locator Code:	JM1-O
Found:	On floor against wall		
Description:	Seized Per Warrant Appears to be fair market value assessments for Ban Chiang artifacts donated by Jon & Carl Markell, 2003 & 2005 Form 1040 tax returns and related documents for Jon & Carl Markell with Form 8283 showing donations of Ban Chiang artifacts		
Control #:	28	Evidence Box:	22
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (1 large vase) per Carl		
Control #:	29	Evidence Box:	23
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (3 vases) per Carl		
Control #:	30	Evidence Box:	24
Location:	Storage Room	Locator Code:	JM1-G
Found:	In Room		
Description:	Seized Per Warrant Appears to be Ban Chiang (2 vases a bracelet, a necklace and a club shaped artifact) per Carl		

Control #:	31	Evidence Box:	25
Location:	Bar	Locator Code:	JM1-F
Found:	On top of bar		
Description:	Seized Per Warrant	Appears to be Ban Chiang (Various bracelets, necklace and other artifacts) per Sol, Robert and verified by Carl	

Control #:	32	Evidence Box:	26
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Appears to be various books about Ban Chiang, spiral bound 1970 UNESCO convention (which discusses Ban Chiang), Various documents showing pictures, descriptions, appraisals of Ban Chiang artifacts, Business cards (believed to be sources of Ban Chiang artifacts)	

Control #:	33	Evidence Box:	27
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Syllabus for Asian ceramics conference (Ban Chiang), List of names w/ phone numbers and business cards (believed to be sources of artifacts), Definition of FMV (as relates to Ban Chiang), List of Ban Chiang item prices, Invoices from silk roads regarding Ban Chiang items, Articles on Ban Chiang	

Control #:	34	Evidence Box:	27
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Various documents, writings and pictures (Ban Chiang artifacts) Letter to LACMA from Jon Markel re: Ban Chiang artifacts	

Control #:	35	Evidence Box:	27
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Phone message book (believed to be regarding sale or disposition of Ban Chiang), Invoices, letter, writings, pictures regarding Ban Chiang artifacts	

Control #:	36	Evidence Box:	27
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Paper regarding SE Asia archiology (believed to include Ban Chiang); Paper titled "Arts of Asia" (believed to be regarding Burmese items); Binder with pictures and descriptions of what appears to be Burmese items	

Control #:	37	Evidence Box:	27
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Various documents regarding Ban Chiang (to include, but not limited to letters from museums, emails, pictures and descriptions of Ban Chiang artifacts)	
Control #:	38	Evidence Box:	27
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Photos that appear to be of Ban Chiang artifacts, hand written notes (believed to be regarding Ban Chiang)	
Control #:	39	Evidence Box:	
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Dell Inspiron 5150 Laptop- Image of 80.03gb hard drive	
Control #:	40	Evidence Box:	
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Image of PNY Technologies Optima Pro Compact Flash	
Control #:	41	Evidence Box:	
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Image of Lexas 2GB Compact Flash Platinum II 80x	
Control #:	42	Evidence Box:	
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Image of San Disk 256MB Compact Flash	
Control #:	43	Evidence Box:	
Location:	Office	Locator Code:	JM1-O
Found:	In Room		
Description:	Seized Per Warrant	Image of 15.38GB Hard Drive from IBM PC	

Inventory Listing of All Items Seized at Search Warrant Site

Site Name: 245 S. IRVING BOULEVARD LOS ANGELES, CA 90004 ROBERT E. OLSON	Investigation Number: 950630127 Starting Date and Time: 01/24/2008 06:20 AM Ending Date and Time: 01/24/2008 03:41 PM	Report Date: Friday, January 25, 2008
--	---	---

Control #:	1	Evidence Box:	1
Location:	JM2 - MAIN	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant APPEARS TO BE BAN CHIANG VASE		
<hr/>			
Control #:	2	Evidence Box:	2
Location:	JM2 - MAIN	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant APPEARS TO BE BAN CHIANG VASE		
<hr/>			
Control #:	3	Evidence Box:	3
Location:	JM2 - MAIN	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant APPEARS TO BE BAN CHIANG VASE		
<hr/>			
Control #:	4	Evidence Box:	4
Location:	JM2 - MAIN	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant APPEARS TO BE BAN CHIANG VASE		
<hr/>			
Control #:	5	Evidence Box:	5
Location:	JM2 - MAIN	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant APPEARS TO BE A BAN CHIANG VASE		
<hr/>			
Control #:	6	Evidence Box:	6
Location:	JM2 - MAIN	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant APPEARS TO BE A BAN CHIANG VASE		
<hr/>			
Control #:	7	Evidence Box:	7
Location:	JM2 - MAIN	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant APPEARS TO BE A BAN CHIANG DISH		

Control #:	8	Evidence Box:	8
Location:	JM2 - MAIN	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant	APPEARS TO BE A BAN CHIANG VASE IN SQUARE DISPLAY CASE	
Control #:	9	Evidence Box:	9
Location:	JM2 - LOFT	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant	APPEARS TO BE A BAN CHIANG BROKEN VASE	
Control #:	10	Evidence Box:	10
Location:	JM2 - LOFT	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant	APPEARS TO BE A LARGE BAN CHIANG VASE	
Control #:	11	Evidence Box:	11
Location:	JM2 - LOFT	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant	APPEARS TO BE A LARGE BAN CHIANG VASE	
Control #:	12	Evidence Box:	
Location:		Locator Code:	
Found:			
Description:	Not Used		
Control #:	13	Evidence Box:	
Location:		Locator Code:	
Found:			
Description:	Not Used		
Control #:	14	Evidence Box:	
Location:		Locator Code:	
Found:			
Description:	Not Used		
Control #:	15	Evidence Box:	15
Location:	JM2 - MAIN	Locator Code:	JM2
Found:	BACK GALLERY		
Description:	Seized Per Warrant	APPEARS TO BE A BAN CHIANG VESSEL - PER CARI MARKELL	

ATTACHMENT 2

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

DOCKET NO.

MAGISTRATE'S CASE NO.

08-0094M

THE PREMISES KNOWN AS:

Markell Imports, Inc. doing business as Silk Roads
Gallery
145 North La Brea Avenue
Los Angeles, California 90036

TO: ANY SPECIAL AGENT OF INTERNAL
REVENUE SERVICE, IMMIGRATION AND
CUSTOMS ENFORCEMENT, NATIONAL PARK
SERVICE OR ANY OTHER AUTHORIZED

Affidavit(s) having been made before me by the below-named affiant that he/she has reason to believe that
on the premises known as SEE ATTACHMENT A AND ATTACHMENT C

NOTE CHANGES MADE BY THE COURT.

in the Central District of California

is now being concealed certain property, namely: SEE ATTACHMENT B

and as I am satisfied that there is probable cause to believe that the property so described is being
concealed on the person or premises above-described and the grounds for application for issuance of the
search warrant exist as stated in the supporting affidavit(s), which are incorporated herein by reference
and attached hereto.

YOU ARE HEREBY COMMANDED to search on or before ten (10) days (not to
exceed 10 days) the person or place named above for the property specified, serving this warrant and
making the search (in the daytime-6:00 A.M. to 10:00 P.M.) and if the property be found there to seize it,
leaving a copy of this warrant and receipt for the property taken, and prepare a written inventory of the
property seized and promptly return this warrant to the duty U.S. Magistrate Judge as
required by law.

NAME OF AFFIANT

SIGNATURE U.S. MAGISTRATE JUDGE

DATE/TIME ISSUED 6:15 P.M.

BONNY L. MacKENZIE

CARLA M. WOHRLE

January 19, 2008

Search is to be authorized "at any time in the day or night" pursuant to Federal Rules of Criminal
Procedure Rule 41(c), show reasonable cause therefor.

*United States Judge or Judge of a State Court of Record.

JMC:rjc

JMC

RETURN

DATE WARRANT RECEIVED

January 23, 2008

DATE AND TIME WARRANT EXECUTED

January 24, 2008 7:30am

Copy of warrant provided to
COPY OF WARRANT AND RECEIPT
FOR ITEMS LEFT WITH Jancimon
receipt left at premises

INVENTORY MADE IN THE PRESENCE OF receipt left at premises

INVENTORY OF PROPERTY TAKEN PURSUANT TO THE WARRANT

See attached.

CERTIFICATION

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

B. Moore

Subscribed, sworn to, and returned before me this date.

James H. Felt 4/24/08

U.S. JUDGE OR MAGISTRATE

DATE

Inventory Listing of All Items Seized at Search Warrant Site

Site Name:	Investigation Number:	Report Date:
Markell Imports Inc DBA Silk Roads	95063127	Wednesday, April 23, 2008
145 N La Brea Ave #C	Starting Date and Time:	
Los Angeles, CA 90036	01/24/2008 08:00 AM	
	Ending Date and Time:	
	01/24/2008 05:24 PM	

Control #:	1	Evidence Box:	1
Location:	Showroom	Locator Code:	A10
Found:	Top of desk		
Description:	Seized Per Warrant Bronze Buddha ev\$1250		

Control #:	2	Evidence Box:	2
Location:	Showroom	Locator Code:	A11
Found:	On floor		
Description:	Seized Per Warrant Bronze sitting Buddha with 4 monks & Hotel Thailand # 3260 ev\$3500		

Control #:	3	Evidence Box:	3
Location:	Showroom	Locator Code:	A11
Found:	Display case		
Description:	Seized Per Warrant Buddha ev\$395		

Control #:	4	Evidence Box:	4
Location:	Showroom	Locator Code:	A11
Found:	Inside cabinet top shelf		
Description:	Seized Per Warrant 3 place Buddha ev \$395		

Control #:	5	Evidence Box:	5
Location:	Showroom	Locator Code:	A11
Found:	Inside cabinet top shelf		
Description:	Seized Per Warrant 3 place Buddha ev \$395		

Control #:	6	Evidence Box:	6
Location:	Showroom	Locator Code:	A11
Found:	Cabinet next to wall		
Description:	Seized Per Warrant #3264 xB9-16th-17th Small statue reddish brown ev \$295		

Control #:	7	Evidence Box:	7
Location:	Showroom	Locator Code:	A11
Found:	Cabinet next to wall top shelf		
Description:	Seized Per Warrant small statue tan and greenish color black base ev \$295		

Control #:	8	Evidence Box:	8
Location:	Showroom	Locator Code:	A11
Found:	Top shelf of cabinet		
Description:	Seized Per Warrant	small metal figurine-sticker on back shows #3261xjk0 ev \$295	

Control #:	9	Evidence Box:	10
Location:	Showroom	Locator Code:	A11
Found:	Table top		
Description:	Seized Per Warrant	Bronze bell bracelet - Ban chaing Identified by Jon Markell ev \$950	

Control #:	10	Evidence Box:	11
Location:	Showroom	Locator Code:	A11
Found:	Glass shelf bottom shelf		
Description:	Seized Per Warrant	Bronze Buddha under the bodhi tree meditating 17th-18th century ev \$795	

Control #:	11	Evidence Box:	13
Location:	Showroom	Locator Code:	A11
Found:	Glass shelf middle shelf		
Description:	Seized Per Warrant	Mon Terracotta of the Buddha in Earth witnessing Madra Dark Brown glaze Burma 16th-17th century ev \$795	

Control #:	12	Evidence Box:	16
Location:	Showroom	Locator Code:	A11
Found:	In cabinet		
Description:	Seized Per Warrant	Bronze Buddha of the 1st sermon from Burma (figurine) ev \$695	

Control #:	13	Evidence Box:	15
Location:	Showroom	Locator Code:	A11
Found:	In cabinet		
Description:	Seized Per Warrant	Sandstone Buddha in earth from Burma ev \$1500	

Control #:	14	Evidence Box:	14
Location:	Showroom	Locator Code:	A11
Found:	In cabinet		
Description:	Seized Per Warrant	Buddha seated in the Bodhi tree figurine from Burma ev \$495	

Control #:	15	Evidence Box:	18
Location:	Showroom	Locator Code:	A11
Found:	In cabinet		
Description:	Seized Per Warrant	Bronze Buddha w/Bodhi tree figurine ev \$495	

Control #:	16	Evidence Box:	21
Location:	Showroom	Locator Code:	A11
Found:	Wood/glass shelf back against wall		
Description:	Seized Per Warrant Pair of Asian artifact lions on wood stage, bronze Burmese guardian lions (singhas) Burma 18th century, ev \$795 for pair		
Control #:	17	Evidence Box:	9
Location:	Showroom	Locator Code:	A11
Found:	On table		
Description:	Seized Per Warrant Solid bronze child's bracelet (Thailand) ev \$595		
Control #:	18	Evidence Box:	12
Location:	Showroom	Locator Code:	A11
Found:	Cabinet		
Description:	Seized Per Warrant The walking Buddha from Burma ev\$450		
Control #:	19	Evidence Box:	17
Location:	Showroom	Locator Code:	A11
Found:	In cabinet		
Description:	Seized Per Warrant Lead seated Buddha from Thailand ev\$875		
Control #:	20	Evidence Box:	20
Location:	Showroom	Locator Code:	A11
Found:	In cabinet		
Description:	Seized Per Warrant Buddha seated in the Bodhi tree figurine ev \$4495		
Control #:	21	Evidence Box:	19
Location:	Showroom	Locator Code:	A11
Found:	Middle shelf of glass cabinet		
Description:	Seized Per Warrant Small seated bronze Buddha in earth witnessing Mudra Thailand, Ayutthiya 17th 18th century ev \$695		
Control #:	22	Evidence Box:	24
Location:	Showroom	Locator Code:	A6
Found:	Hanging on wall		
Description:	Seized Per Warrant Glass decoration wood guild Peacock Burma Imported 2006 ev \$1950		
Control #:	23	Evidence Box:	22
Location:	Showroom	Locator Code:	A11
Found:	Wood/glass shelf back against wall		
Description:	Seized Per Warrant lead charm with Buddha in Bhumi-sparso Madra Burma 17th 18th century ev \$425		

Control #:	24	Evidence Box:	26
Location:	Showroom	Locator Code:	A13
Found:	On stool		
Description:	Seized Per Warrant	Votive Buddha w/tall finial and pointed aureole burma shan style 18 - 19th century ev \$7800	
Control #:	25	Evidence Box:	23
Location:	Showroom	Locator Code:	A6
Found:	On stand near tall buffet		
Description:	Seized Per Warrant	Small alabaster Buddha head w/fome features 18th - 19th century ev \$3975	
Control #:	26	Evidence Box:	25
Location:	Showroom	Locator Code:	A6
Found:	On stand against wall		
Description:	Seized Per Warrant	Lacquer standing Buddha gilded w/colored glass & raised lacquer standing Buddha ev \$9500	
Control #:	27	Evidence Box:	27
Location:	Showroom	Locator Code:	A13
Found:	On floor		
Description:	Seized Per Warrant	3277 Temple pillar w/duck and devas 19th century ev \$1275	
Control #:	28	Evidence Box:	28
Location:	Showroom	Locator Code:	A13
Found:	Center round table by couch		
Description:	Seized as Contraband	Qx cart ornament w/Naga eating an animal and a snake head at the other end and Burma Mandalay ev \$1450	
Control #:	29	Evidence Box:	31
Location:	Showroom	Locator Code:	A14
Found:	Center table top shelf		
Description:	Seized Per Warrant	Earth touching Buddha mon style wooden Buddha-Burma 18th ev \$1950	
Control #:	30	Evidence Box:	33
Location:	Showroom	Locator Code:	A14
Found:	Center table top shelf		
Description:	Seized Per Warrant	Wood Buddha in earth witness Mudra Thailand 18-19 century ev \$2900	
Control #:	31	Evidence Box:	29
Location:	Showroom	Locator Code:	A4
Found:	On table		
Description:	Seized Per Warrant	Votive Buddha on lotus throne from Burma (wood figurine) ev \$9800	

Control #:	32	Evidence Box:	30
Location:	Showroom	Locator Code:	A4
Found:	On table		
Description:	Seized Per Warrant Wood Votive Buddha in shal style from Burma ev \$7800		
Control #:	33	Evidence Box:	34
Location:	Showroom	Locator Code:	A14
Found:	Center shelf		
Description:	Seized Per Warrant Ban Chiang pottery vase ev \$6500		
Control #:	34	Evidence Box:	32
Location:	Showroom	Locator Code:	A14
Found:	Center table top shelf		
Description:	Seized Per Warrant Wooden Buddha burma 3161 IT KLK Earth witnessing Mudra ev \$2900		
Control #:	35	Evidence Box:	35
Location:	Showroom	Locator Code:	A13
Found:	Center table top shelf		
Description:	Seized Per Warrant Wood Buddha statue Earth Touching Mudra Burma raised Thayo decoration ev \$1975		
Control #:	36	Evidence Box:	36
Location:	Showroom	Locator Code:	A1
Found:	On floor in front of flag		
Description:	Seized Per Warrant Lacquer standing Buddha gilded and glass decoration photos prohibited entry Burma 18th century ev \$5900		
Control #:	37	Evidence Box:	37
Location:	Showroom	Locator Code:	A13
Found:	Center table top shelf		
Description:	Seized Per Warrant Very high throne w/dedication panel wood Buddha statue Burma ev \$1975		
Control #:	38	Evidence Box:	39
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Stone bracelet ev \$300		
Control #:	39	Evidence Box:	40
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Bronze axe ev \$275		

Control #:	40	Evidence Box:	43
Location:	Showroom	Locator Code:	A10
Found:	Near main door		
Description:	Seized Per Warrant Seated gift Buddha ev \$3200		
Control #:	41	Evidence Box:	44
Location:	Showroom	Locator Code:	A14
Found:	Center table middle shelf		
Description:	Seized Per Warrant Buddha in earth witness Mudra wood statue Burma ev \$1050		
Control #:	42	Evidence Box:	41
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Bronze bracelets ev \$275		
Control #:	43	Evidence Box:	38
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Stone bracelet ev \$300		
Control #:	44	Evidence Box:	42
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Bronze bracelet ev \$275		
Control #:	45	Evidence Box:	46
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Ceramic Pounder ev \$75		
Control #:	46	Evidence Box:	49
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Bronze axe ev \$275		
Control #:	47	Evidence Box:	48
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Bronze axe ev \$275		
Control #:	48	Evidence Box:	45
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Ceramic pounder		

Control #:	49	Evidence Box:	47
Location:	Showroom	Locator Code:	A13
Found:	Inside bottom cabinet		
Description:	Seized Per Warrant Bronze miniature vessel ev \$400		
Control #:	50	Evidence Box:	52
Location:	Showroom	Locator Code:	A13
Found:	Top of buffet		
Description:	Seized Per Warrant 8 wood religious carvings described as leafs red in color w/gold train ev \$495		
Control #:	51	Evidence Box:	50
Location:	Showroom	Locator Code:	A13
Found:	On table		
Description:	Seized Per Warrant Gold colored Buddha wood carving		
Control #:	52	Evidence Box:	56
Location:	Showroom	Locator Code:	A5
Found:	Desk drawer in cash box		
Description:	Seized Per Warrant Ban Ching Adze arrowhead by Robert Murdwchick ev \$295		
Control #:	53	Evidence Box:	53
Location:	Artifact Storage	Locator Code:	C8
Found:	On top shelf		
Description:	Seized Per Warrant Buddha in earth touching Mudra on very hight throne ev \$1700		
Control #:	54	Evidence Box:	55
Location:	Showroom	Locator Code:	A13
Found:	Table top		
Description:	Seized Per Warrant Lacquered painted gift Buddha ev \$2600		
Control #:	55	Evidence Box:	51
Location:	Showroom	Locator Code:	A13
Found:	Hanging on wall		
Description:	Seized Per Warrant Sutra Buddhist Scriptures trunk panel Burma w/4 monkey figures Import 2006 ev \$4800		
Control #:	56	Evidence Box:	54
Location:	Artifact Storage	Locator Code:	C5
Found:	On floor		
Description:	Seized Per Warrant Bronze standing Buddha in freedom from fear Mudra ev \$14500		

ATTACHMENT 3

1 BY MEANS OF FALSE DECLARATIONS AND STATEMENTS in violation of 18
2 U.S.C. § 371 and 542.

3 b. Not contest facts agreed to in this agreement.

4 c. Abide by all agreements regarding sentencing contained
5 in this agreement.

6 d. Appear for all court appearances, surrender as ordered
7 for service of sentence, obey all conditions of any bond, and obey
8 any other ongoing court order in this matter.

9 e. Not commit any crime; however, offenses that would be
10 excluded for sentencing purposes under United States Sentencing
11 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
12 within the scope of this agreement.

13 f. Be truthful at all times with Pretrial Services, the
14 United States Probation Office, and the Court.

15 g. Pay the applicable special assessment at or before the
16 time of sentencing unless defendant lacks the ability to pay and
17 prior to sentencing submits a completed financial statement on a form
18 to be provided by the USAO.

19 h. Defendant agrees to repatriate and return the
20 antiquities and archeological resources ("the Artifacts") seized from
21 his residence and business premises on or about January 24, 2008, to
22 the Artifacts' countries of origin. The parties believe that the
23 countries of origin include China, Thailand, Cambodia, and Burma.
24 This obligation is joint and several to the obligation of co-
25 defendant Carolyn Markell to perform the same repatriation of the
26 same Artifacts. The Artifacts to be repatriated and returned to the
27 countries of origin are set forth in the Inventory Listing of All
28 Items Seized at Search Warrant Site 245 South Irving Blvd., Los

1 Angeles, California, and Inventory Listing of All Items Seized at
2 Search Warrant Site Markell Imports, doing business as Silk Roads
3 Gallery, 145 North La Brea Avenue, Los Angeles, California, attached
4 hereto and incorporated herein, respectively, as Attachments 1 and 2.

5 i. As part of the repatriation, defendant agrees to
6 waive all claims to, and voluntarily abandon and forfeit, all title
7 and interest in the Artifacts to the countries of origin or to an
8 entity selected by the governments of the countries of origin and
9 approved by the USAO.

10 ii. As part of the repatriation, defendant agrees to
11 properly package the Artifacts and to cause their shipment to the
12 countries of origin by boat. The defendant specifically agrees to
13 take all reasonable and customary steps used for the shipping of
14 Artifacts to ensure that they are packaged, shipped, and transported
15 in such a way that they arrive in the countries of origin intact and
16 undamaged. The USAO will provide the defendant with shipping
17 address(es) and contact information for the designated shipping
18 location in each country, and will otherwise assist with the transfer
19 to the extent necessary

20 iii. The parties anticipate and believe that the
21 approximate repatriation costs for the Artifacts will be \$25,000.
22 This is, however, a non-binding estimate of costs, and defendant will
23 be jointly and severally liable with co-defendant Carolyn Markell for
24 all repatriation costs.

25 iv. The defendant, USAO, and investigating agencies
26 agree to cooperate and to use their best efforts to coordinate the
27 repatriation of the Artifacts. In the event the Artifacts are unable
28 to be transferred due to acts taken or not taken by the country of

1 origin or by any governmental entity, the USAO and investigating
2 agencies agree to designate, or to work with the governments of the
3 countries of origin to designate, a substitute institution/location
4 to which the defendant agrees to transfer the Artifacts. The USAO
5 agrees that the failure to transfer the Artifacts to the country of
6 origin as a result of acts taken or not taken by the country of
7 origin or by any governmental entity will not be considered a breach
8 of this Agreement.

9 i. Defendant agrees to cooperate with the Internal
10 Revenue Service in the determination of defendant's tax liability for
11 years 2004 through 2007. Defendant agrees that:

12 i. Defendant will file, prior to the time of
13 sentencing, amended returns for the years subject to the above
14 admissions, correcting improper deductions and credits; will, if
15 requested to do so by the Internal Revenue Service, provide the
16 Internal Revenue Service with information regarding the years covered
17 by the returns; will pay if able, or if not able will enter into a
18 payment schedule with the IRS, at or before sentencing all additional
19 taxes and all penalties and interest assessed by the Internal Revenue
20 Service on the basis of the returns; and will promptly pay all
21 additional taxes and all penalties and interest thereafter determined
22 by the Internal Revenue Service to be owing as a result of any
23 computational errors.

24 ii. Nothing in this agreement forecloses or limits
25 the ability of the Internal Revenue Service to examine and make
26 adjustments to defendant's returns after they are filed.

27 iii. To the full extent that the IRS has withheld
28 refunds for prior tax years, including years 2004 through the

ATTACHMENT 4

1 origin or by any governmental entity, the USAO and investigating
2 agencies agree to designate, or to work with the governments of the
3 countries of origin to designate, a substitute institution/location
4 to which the defendant agrees to transfer the Artifacts. The USAO
5 agrees that the failure to transfer the Artifacts to the country of
6 origin as a result of acts taken or not taken by the country of
7 origin or by any governmental entity will not be considered a breach
8 of this Agreement.

9 i. Defendant agrees to cooperate with the Internal
10 Revenue Service in the determination of defendant's tax liability for
11 years 2004 through 2007. Defendant agrees that:

12 i. Defendant will file, prior to the time of
13 sentencing, amended returns for the years subject to the above
14 admissions, correcting improper deductions and credits; will, if
15 requested to do so by the Internal Revenue Service, provide the
16 Internal Revenue Service with information regarding the years covered
17 by the returns; will pay if able, or if not able will enter into a
18 payment schedule with the IRS, at or before sentencing all additional
19 taxes and all penalties and interest assessed by the Internal Revenue
20 Service on the basis of the returns; and will promptly pay all
21 additional taxes and all penalties and interest thereafter determined
22 by the Internal Revenue Service to be owing as a result of any
23 computational errors.

24 ii. Nothing in this agreement forecloses or limits
25 the ability of the Internal Revenue Service to examine and make
26 adjustments to defendant's returns after they are filed.

27 iii. To the full extent that the IRS has withheld
28 refunds for prior tax years, including years 2004 through the

1 present, for reasons related to this criminal investigation, such
2 withheld monies shall be considered and, as appropriate, credited to
3 the calculation of any amounts due and owing pursuant to this
4 agreement. Defendant will not, after filing the returns, file any
5 claim for refund of taxes, penalties, or interest for amounts
6 attributable to the returns filed in connection with this plea
7 agreement.

8 iv. Defendant gives up any and all objections that
9 could be asserted to the Examination Division of the Internal Revenue
10 Service receiving materials or information obtained during the
11 criminal investigation of this matter, including materials and
12 information obtained through grand jury subpoenas. Defendant and/or
13 his tax representative, shall be entitled to obtain a copy of any
14 such materials from the criminal investigation or grand jury
15 subpoenas that are sent to the Examination Division.

16 THE USAO'S OBLIGATIONS

17 4. The USAO agrees to:

18 a. Not contest facts agreed to in this agreement.

19 b. Abide by all agreements regarding sentencing contained
20 in this agreement.

21 c. At the time of sentencing, move to dismiss the
22 remaining counts of the indictment as against defendant. Defendant
23 agrees, however, that at the time of sentencing the Court may
24 consider any dismissed charges in determining the applicable
25 Sentencing Guidelines range, the propriety and extent of any
26 departure from that range, and the sentence to be imposed.

27 d. At the time of sentencing, provided that defendant
28 demonstrates an acceptance of responsibility for the offense up to