

JUDGE SPINAZZO

MARY JO WHITE  
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Southern District of New York  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA, :

Plaintiff, :

- v. - :

AN ARCHAIC ETRUSCAN POTTERY :  
CEREMONIAL VASE C. LATE 7TH :  
CENTURY, B.C. AND A SET OF RARE :  
VILLANOVAN AND ARCHAIC ETRUSCAN :  
BLACKWARE WITH BUCCHERO AND :  
IMPASTO WARE, C. 8TH-7TH CENTURY, :  
B.C., LOCATED AT ANTIQUARIUM, LTD., :  
948 MADISON AVENUE, NEW YORK, :  
NEW YORK, 10021, :

Defendants-in-rem. :  
-----X

VERIFIED COMPLAINT

96 CIV. 9437

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USDC SDNY

Plaintiff United States of America, by its attorney,  
Mary Jo White, United States Attorney for the Southern District  
of New York, for its complaint alleges as follows:

I. JURISDICTION AND VENUE

1. This is an action brought by the United States of  
America pursuant to 16 U.S.C. § 470gg (Archaeological Resources  
Protection Act) seeking the forfeiture of all right, title and  
interest in personal property described as AN ARCHAIC ETRUSCAN

001281

POTTERY CEREMONIAL VASE C. LATE 7TH CENTURY, B.C. AND A SET OF RARE VILLANOVAN AND ARCHAIC ETRUSCAN BLACKWARE WITH BUCCHERO AND IMPASTO WARE, C. 8TH-7TH CENTURY, B.C., LOCATED AT ANTIQUARIUM, LTD., 948 MADISON AVENUE, NEW YORK, NEW YORK, 10021 ("defendants-in-rem").

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355. Venue is proper because the defendants-in-rem are located in the Southern District of New York.

#### I. PROBABLE CAUSE FOR FORFEITURE

3. From in or about June 1987 through in or about July 1987, archaeologists working under the auspices of the Archaeological Government Office of Rome (Soprintendenza Archeologica di Roma) made a series of excavations in and around a protected archaeological zone in Rome which includes the ancient town of Crustumerium and its necropolis ("Crustumerium Protected Archeological Zone"). These excavations led to the discovery of numerous vases and metal objects of archaeological interest.

4. All authorized excavations in the Crustumerium Protected Archaeological Zone were completed in or around July 1987.

5. At least 50 illegal excavations in the Crustumerium Protected Archaeological Zone have been detected by officials of the Archaeological Government Office of Rome.

6. In or about October-November 1987, Antiquarium, Ltd., a gallery located at 948 Madison Avenue, New York, New York, purchased the defendants-in-rem from Edoardo Almagia,

001282

Antiquities and Medieval Works of Art, 136 E. 56th Street, New York, New York, along with certain other items, for approximately \$24,500.

7. The defendants-in-rem were included by Antiquarium, Ltd. in a sale entitled "The Art of Ancient Italy: Archaic to Roman 1000 B.C. to 400 A.D." which opened at Antiquarium on or about November 17, 1988. Photographs of the defendants-in-rem were included in a catalogue issued by Antiquarium, Ltd. in connection with the sale. The Antiquarium, Ltd. catalogue is generally distributed nationally and internationally.

8. The defendants-in-rem were not sold.

9. On or about March 6, 1996, Francesco Di Gennaro, an Archeologist Inspector at the Archeological Government Office of Rome, reviewed the photographs in the catalogue described in ¶ 7 above.

10. Di Gennaro identified the defendants-in-rem as having been excavated from the Crustumerium Protected Archaeological Zone based on his experience in supervising excavations at that site and on his expertise in the field of Etruscan archeology.

11. On or about March 11, 1996, Giovanni Colonna, a Professor of Etruscology and Italic Archaeology at the University of Rome, identified the defendants-in-rem from the catalogue photographs as having originated from a Latin necropolis of the VII century, B.C., most likely the Crustumerium Protected

Archaeological Zone. Colonna based this determination on certain identifying characteristics and the apparent state of preservation of the defendants-in-rem.

12. On or about December 9, 1996, Antiquarium, Ltd. was provided formal notice that the defendants-in-rem were stolen property, and a demand was made for their return. Antiquarium, Ltd. remains in possession of the defendants-in-rem.

## II. FIRST CLAIM FOR FORFEITURE

13. Incorporated herein are the allegations contained in paragraphs 1 through 12 of the Verified Complaint.

14. The statutory provisions pursuant to which the defendants-in-rem are subject to seizure and forfeiture are as follows:

a. 16 U.S.C. § 470ee(c) provides in relevant part:

No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

b. 16 U.S.C. § 470bb(1) provides in relevant part:

The term "archaeological resource" means any material remains of past human life or activities which are of archeological interest, as determined under uniform regulations promulgated pursuant to this chapter. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings,

intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items .... No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

c. . New York Penal Law § 165.45 provides in relevant part:

A person is guilty of criminal possession of stolen property in the fourth degree when he knowingly possesses stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof.

d. 16 U.S.C. § 470gg(b) provides in relevant part:

All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 470ee of this title occurred and which are in the possession of any person ... may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon ...

(3) a determination by any court that such archaeological resources ... were involved in such violation.

15. By reason of the above, the defendants-in-rem became and are subject to forfeiture to the United States of America pursuant to 16 U.S.C. § 470gg(b).


WHEREFORE, plaintiff United States of America prays that process be issued to enforce the forfeiture of the defendants-in-rem and that all persons having an interest in the defendants-in-rem be cited to appear and show cause why the forfeiture should not be decreed, and that this Court decree forfeiture of the defendants-in-rem to the United States of

America for disposition according to law, and that this Court grant plaintiff such further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: New York, New York  
December 12, 1996

MARY JO WHITE  
United States Attorney for the  
Southern District of New York  
Attorney for the Plaintiff  
United States of America

BY:

  
EVAN T. BARR  
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New York, New York 10007  
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VERIFICATION

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss:  
SOUTHERN DISTRICT OF NEW YORK )

BONNIE GOLDBLATT, being duly sworn, deposes and says that she is a special agent with the United States Customs Service, and as such has responsibility for the within action, that she has read the foregoing complaint and knows the contents thereof, and that the same is true to the best of her own knowledge information and belief.

The source of her information and the grounds of her belief are official records and files of the United States and Mexico as well as information obtained during an investigation in connection with a letters rogatory request for judicial assistance pursuant to 28 U.S.C. § 1782.



BONNIE GOLDBLATT  
Special Agent  
United States Customs Service

Sworn to before me this  
12<sup>th</sup> day of December, 1996



NOTARY PUBLIC

LESLEY B. GLENN  
Notary Public, State of New York  
No. 31400-0007  
Qualified in New York County  
Commission Expires 6/30/97

001287