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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 UNITED STATES OF AMERICA,) CASE NO.

15 Plaintiff,)

16 v.)

**VERIFIED COMPLAINT FOR CIVIL
FORFEITURE *IN REM***

17)
18 TWO ONE-THOUSAND-FIVE-HUNDRED-)
POUND, HAND-CARVED LINTELS)
19 REMOVED FROM RELIGIOUS TEMPLES)
20 IN THAILAND,)

21 Defendants.)

22 The United States of America, by its attorneys, David L. Anderson, United States Attorney, and
23 Chris Kaltsas, Assistant United States Attorney for the Northern District of California, brings this
24 complaint and alleges as follows:

25 **NATURE OF THE ACTION**

26 1. This is a judicial forfeiture action *in rem*, as authorized by Title 19, United States Code,
27 Sections 1595a, 1604, and 1610.
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1 exhibit at the Museum. Upon seeing the defendant property, the Consul General spoke with a Senior
2 Curator at the Museum, who informed him that the defendant property had originally been donated to
3 the City of San Francisco, which created, and continues to maintain, the Museum. See Exs. A and B,
4 Photographs of Defendant Property. The Consul General expressed his desire to see these lintels
5 returned to Thailand. The Museum, however, made no further communication with the Consul General,
6 or any Thai official, until after the United States initiated the instant investigation.
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8 10. On or about May 31, 2017, the Thai Minister of Culture (the principal executive of
9 Thailand's Ministry of Culture) met with the Chargé d'affaires at the United States Embassy in
10 Bangkok, Thailand, along with a Special Agent from Homeland Security Investigations, United States
11 Department of Homeland Security. At the meeting, the Minister informed the Chargé that Thai officials
12 had reviewed evidence concerning the cultural significance of the defendant property at the Museum.
13 The Minister indicated that Thailand's Fine Arts Department, a subdivision of the Ministry of Culture,
14 had concluded that the defendant property constituted two lintels from monuments in Buriram and Sa
15 Kaeo (also known as Sra Kaew) provinces in Thailand. Moreover, the Minister indicated that the Thai
16 government was interested in the return of these two lintels, as the evidence the Thai government had
17 collected confirmed that the lintels belonged to two ancient temples in Northeastern Thailand and were
18 designated as cultural artifacts protected under the laws of Thailand since 1935.
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20 11. The Fine Arts Department commissioned two archaeological surveys outlining the
21 provenance of the defendant property. One survey placed one of the lintels ("LINTEL 1") at the Prasat
22 Nong Hong Temple, in Non Din Daeng District, Buriram Province, Thailand. See Ex. A. The
23 archaeologists who authored the survey indicated that LINTEL 1 was a part of the Prasat Nong Hong
24 Temple until at least 1959. The authors compared images of LINTEL 1 while it was on the Prasat Nong
25 Hong Temple and images of LINTEL 1 from the Museum. The authors concluded, based on their
26 expertise in Southeast Asian archaeology, that the images from the Museum depicted LINTEL 1.
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1 12. The second archaeological survey placed the other defendant lintel (“LINTEL 2”) at the
2 Prasat Khao Lon Temple, Ta Phraya District, Sa Kaeo Province, Thailand. See Ex. B. The
3 archaeologists who authored this survey indicated that LINTEL 2 was on the Prasat Khao Lon Temple
4 until at least 1967. The authors compared images of LINTEL 2 while it was on Prasat Khao Lon
5 Temple and images of LINTEL 2 from the Museum. The authors concluded, based on their expertise in
6 Southeast Asian archaeology, that the images from the Museum depicted LINTEL 2.
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8 13. Records obtained during the course of investigating the origin of LINTELS 1 and 2
9 indicate that the defendant property had been donated to the City of San Francisco from a prolific
10 collector of Asian art and artifacts (“COLLECTOR 1”). Those same records indicate that
11 COLLECTOR 1 obtained LINTEL 1 in 1966 from an auction house and gallery located in London, UK
12 (“GALLERY 1”). The records further indicate that COLLECTOR 1 obtained LINTEL 2 from a gallery
13 located in Paris, France (“GALLERY 2”) in 1968.
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15 14. The records the United States reviewed also included documents establishing both lintels’
16 provenance. With respect to LINTEL 1, the Museum had several letters that COLLECTOR 1
17 exchanged with representatives of GALLERY 1 concerning the purchase of art. Among other things,
18 one of the representatives of GALLERY 1 and COLLECTOR 1 exchanged letters concerning the
19 potential that at least one lintel that COLLECTOR 1 had purchased had been stolen from Thailand, and
20 that another artifact had been taken out of Thailand illegally. These records also included archaeological
21 surveys from Thailand, indicating that LINTEL 1 had been removed from Prasat Nong Hong temple.
22 These communications indicate that COLLECTOR 1 was on notice that at least some portion of his
23 collection had been illegally exported from Southeast Asia.
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25 15. With respect to LINTEL 2, the United States reviewed letters between COLLECTOR 1
26 and representatives of GALLERY 2. Among other things, COLLECTOR 1 indicated that a Thai lintel
27 in his possession had been reported stolen by the Thai government, and that the Thai government had
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1 asked COLLECTOR 1 to return the lintel. COLLECTOR 1 sought the advice of a representative of
2 GALLERY 2 about the situation. The records included a copy of an article published in the Bangkok
3 Post. This article described LINTEL 2's presence in the United States and indicated that, according to
4 the leader of a Thai archaeological conservation group, Thai officials wanted to recover this lintel as it
5 had been improperly looted from Thailand.
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7 16. During the relevant time period, Thailand administered several cultural patrimony laws
8 designed to protect art, antiques, monuments, and artifacts that contributed to Thai historiography and
9 cultural heritage. The two Thai patrimony laws relevant to this complaint are the 1934 Act on Ancient
10 Monuments, Objects of Art, Antiquities and National Museums; and the 1961 Act on Ancient
11 Monuments, Antiques, Objects of Art, and National Museums. Both laws govern whether and/or when
12 a piece of art is permitted to be exported from Thailand. In sum, both laws prohibit the removal of
13 property from Thailand that is culturally and/or historically significant except under limited
14 circumstances, none of which are applicable here. Both laws also deem cultural artifacts, like LINTELS
15 1 and 2, state property. Both laws are relevant here because, as described above, LINTEL 1 was last
16 placed at the Prasat Nong Hong Temple in 1959, meaning it came off the temple between 1959 and its
17 1966 appearance at GALLERY 1. Although the exact date of LINTEL 1's removal is unknown, its
18 removal post-dated the passage of the 1934 Act. LINTEL 2 is known to have been removed from
19 Thailand after 1961, meaning that the 1961 Act applies to LINTEL 2.
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22 17. Both laws prohibited the removal of the defendant lintels from Thailand at all times
23 relevant to this complaint. Both laws cover numerous Thai archaeological sites cross-referenced
24 through the "Government Gazette," which functions as Thailand's repository of executive regulations.
25 The Government Gazette included the archaeological sites that held both lintels, Prasat Nong Hong
26 Temple and Prasat Khao Lon Temple, and thus required that the artifacts within those sites (including
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1 LINTELS 1 and 2) not be removed from Thailand, except upon the issuance of an export license or
2 other permission to leave Thailand.

3 18. No person or entity ever sought an application for an export license or other form of
4 permission to take these lintels out of the Kingdom of Thailand prior to their removal from the country.

5 19. As goods and merchandise entering the territory of the United States from territory
6 outside the United States, LINTELS 1 and 2 are subject to customs laws, rules, and regulations,
7 including those described in Title 19 of the United States Code and the regulations promulgated
8 thereunder.

9 20. As LINTELS 1 and 2 were imported into the United States in violation of Thai law, i.e.
10 without the requisite export documents, and as LINTELS 1 and 2 were the cultural property of Thailand,
11 LINTELS 1 and 2 constitute stolen, smuggled, and/or clandestinely imported or introduced merchandise
12 pursuant to Title 19, United States Code, Section 1595a(c)(1)(A).

13 21. The United States seeks to make LINTELS 1 and 2 available for repatriation to the
14 Kingdom of Thailand upon forfeiture of all interests in LINTELS 1 and 2 to the United States, pending
15 the outcome of the Department of Justice's remission/restoration process.

16 22. Starting in 2017, and continuing through subsequent years, the United States brought the
17 issue with LINTELS 1 and 2 to the Museum's attention. Only recently, after the United States
18 attempted to negotiate with counsel for the City and County of San Francisco in good faith, the museum
19 initiated inquiries into the return of LINTELS 1 and 2 to Thailand. However, the United States' requests
20 for the City and County of San Francisco to adhere to a court-sanctioned process have not been fruitful.
21 Thus, the United States now brings the instant action to ensure the rights of the Thai government as a
22 potential claimant to LINTELS 1 & 2.
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CLAIM FOR RELIEF

23. The United States incorporates by reference the allegations in paragraphs 1 through 22 as though fully set forth herein.

24. Civil forfeiture actions brought under Title 19 are exempt from the general requirements of the Civil Asset Forfeiture Reform Act of 2000. See Title 18, United States Code, Section 983(i)(2)(A).

25. The burden of proof in civil forfeiture actions brought under Title 19 requires the government to prove the forfeitability of an asset by probable cause. Title 19, United States Code, Section 1615.

26. Title 19, United States Code, Section 1595a(c)(1)(A) mandates the seizure and forfeiture of merchandise if it is stolen, smuggled, or clandestinely imported or introduced; is a controlled substance; is a contraband article; or is a plastic explosive as defined by law.

27. At all times relevant to this complaint, the 1934 and 1961 Thai cultural property acts described above forbade the unlicensed export of archaeological artifacts from specifically named archeological sites, including the Prasat Nong Hong and Prasat Khao Lon Temples.

28. In light of the foregoing, and considering the totality of the circumstances, the defendant property represents merchandize which was introduced into the United States contrary to law, as it was stolen, smuggled, or clandestinely imported or introduced. The defendant property listed herein is thus subject to forfeiture under Title 19, United States Code, Section 1595a(c)(1)(A).

WHEREFORE, plaintiff United States of America requests that due process issue to enforce the forfeiture of the above listed Defendant Property; that notice be given to all interested parties to appear and show cause why forfeiture should not be decreed; that judgment of forfeiture be entered; that the Court enter a judgment forfeiting the Defendant Property; and that the United States be awarded such other relief as may be proper and just.

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DATED: October 26, 2020

Respectfully submitted,

DAVID L. ANDERSON
United States Attorney

_____/s/_____
CHRIS KALTSAS
AMANDA M. BETTINELLI (CDCA)
Assistant United States Attorneys

VERIFICATION

I, David Keller, state as follows:

1. I am a Special Agent with Homeland Security Investigations, Department of Homeland Security. I am an agent assigned to this case. As such, I am familiar with the facts and the investigation leading to the filing of this Complaint for Forfeiture.

2. I have read the Complaint and believe the allegations contained therein to be true.

* * * * *

I declare under penalty of perjury that the foregoing is true and correct. Executed this 26th day of October, 2020, in San Francisco, California.



David R. Keller
Special Agent
Homeland Security Investigations

EXHIBIT A



EXHIBIT B



CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

AUSA Chris Kaltsas
450 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102, 415-436-6915

DEFENDANTS

Two One-Thousand-Five-Hundred-Pound, Hand-Carved Lintels Removed from Religious Temples in Thailand

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation-Transfer 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Title 19, United States Code, Section 1595a(c)(1)(A)

Brief description of cause:

Forfeiture of Stolen, Smuggled, or Clandestinely Imported or Introduced Merchandise

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)

X SAN FRANCISCO/OAKLAND

SAN JOSE

EUREKA-MCKINLEYVILLE

DATE 10/26/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ Chris Kaltsas

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.