



Ancient Coin Collectors Guild

P.O. Box 911, Gainesville, MO 65655
tel: 417-679-2142 email: director@accg.us

Web Site: <http://accg.us>

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Re: Meeting of the Cultural Property Advisory Committee Regarding Proposed Memorandum of Understanding with the Government of Libya, Federal Register: July 3, 2017 (Volume 82, Number 126 (Page 30936))

The Ancient Coin Collectors Guild¹ (“ACCG”) joins the numismatic trade in questioning the wisdom of Libya’s request. It should be tabled pending receipt of further information or, at most, “emergency” restrictions should be promulgated that are limited to site specific material from Libya’s endangered World Heritage Sites: (1) Kyrene; (2) Leptis Magna; (3) Sabratha; (4) Tadrat Acacus; and (5) Ghademes. (*See Libya’s five World Heritage sites put on List of World Heritage in Danger*, (UNESCO) (July 14, 2017), available at <http://whc.unesco.org/en/news/1523/> (last visited July 7, 2017).)

Under no circumstances should there be restrictions placed on historical coins except those stolen from Libyan state collections. As set forth in the IAPN/PNG submission and also in the attached paper and power point by ACCG Board Member Mike Markowitz (Exhibit A.), what hoard evidence that is available shows that “Libyan” coins are typically found outside of the confines of modern day “Libya,” which would make any restrictions placed upon them contrary to governing law. *Ancient Coin Collectors Guild v. U.S. Customs and Border Protection* (“ACCG v. CBP”), 801 F. Supp. 2d 383, 407 n. 25 (D. Md. 2011) (“Congress only

¹ The Guild is a nonprofit 501 (c) (4) organization. It has twenty-two (22) affiliate member organizations and advocates for the interests of thousands of ancient coin collectors and hundreds of small businesses of the numismatic trade. Its website may be found at <http://www.accg.us/home.aspx>.

authorized the imposition of import restrictions on objects that were ‘first discovered within, and [are] subject to the export control by the State Party.’”).

The claims of anti-collecting activist Nathan Elkins in support of restrictions on coins can be dispensed with quickly. First, he claims coins are “gushing out of the country.” Elkins at 2. Yet, in the next paragraph Elkins himself acknowledges that only a small number of “Libyan” coins are currently for sale on various electronic platforms. That instead suggests that any claims of looting of “Libyan coins” has been greatly exaggerated. If coins were indeed “gushing out” of Libya as Elkins claims, we would expect to see thousands upon thousands of those coins showing up unexpectedly on the marketplace. The fact that this has not happened suggests that Libya does not face a serious looting problem for coins. The mere fact that what coins listed on eBay and other on-line platforms lack any collection history does not mean they are recently looted either. Rather, like many low value antiques, detailed collection histories for coins were simply not retained over time because they were not thought important.

Puzzlingly, Elkins uses his own misleading statistics about Cypriot coins to support his claim that Libyan coins were restricted. Even assuming Elkins proposed “local circulation” standard were appropriate (*id.*), Elkins himself has presented no data to support the proposition that Libyan circulated locally as opposed to outside the confines of modern day Libya. Indeed, the hoard evidence the ACCG and IAPN/PNG presented argues persuasively that Libyan coins were not “local” issues so they could not be restricted even under Elkins’ loose standards.

In any case, Elkins “local circulation” standard has no standing in governing U.S. law. CPAC and the U.S. State Department only have legal authority to place restrictions on coins that are only found in Libya as only those coins “first discovered within Libya” can also be “subject to” Libyan export control.²

For these reasons, no import restrictions should be placed on “Libyan coins” except to the extent there is evidence they were stolen from Libyan public or private collections.

² The U.S. District Court and Appellate Court that reviewed the issue acknowledged CPAC’s role in ascertaining what types of objects should be included on the designated lists, but refused to get involved based on the view that the matter was non-justiciable. See *Ancient Coin Collectors Guild*, 801 F. Supp. 2d at 388, *aff’d*, 698 F.3d 171 (4th Cir. 212). Former CPAC member Robert Korver has confirmed that despite Elkins’ views, CPAC previously recommended against import restrictions on Cypriot coins and was thereafter allowed no role in determining whether other coin types should be restricted. (Exhibit B.) If anything, the fact that courts won’t get involved makes CPAC’s careful review of the issues even more important.

EXHIBIT A

The Circulation of Ancient Coins in Libya

Mike Markowitz

The concept of “Libya” as a single nation is largely a product of twentieth century colonialism, and post-colonial Arab nationalism. The word “Libya” derives from Greek, and in antiquity it was variously used to describe all or part of North Africa west of Egypt. For most of its history, this part of North Africa has comprised two very different provinces: Tripolitania, to the west; and Cyrenaica to the east. This division strongly influenced patterns of coin circulation.

The ancestors of the modern Berber people may have settled in the region as early as c. 8000 BCE, when the Sahara desert was much greener. Phoenicians established coastal trading posts in the 8th century BCE, and Carthage, the most successful of these, created an extensive empire extending across Tripolitania by the 5th century.

Tripolitania

The Greek name “Tripolitania” means “three cities” and refers to the Phoenician colonies of Oea (modern Tripoli), Sabratha, and Leptis Magna. The largely Roman era ruins of Sabratha¹ were designated a UNESCO World Heritage site in 1982. Leptis Magna, also a World Heritage² site, was the birthplace of Roman emperor Septimius Severus (ruled 193-211) and was one of the best-preserved ancient cities in the Mediterranean.

The earliest coinage to circulate in this area was Carthaginian. Carthage began striking coinage around 410 BCE on the island of Sicily, probably to pay mercenaries. Around 350 BCE, as its far-flung trade flourished, Carthage issued a large volume of coinage in electrum, a variable alloy of gold and silver. In 241 BCE the native mercenaries of Tripolitania rose in revolt against the rule of Carthage. For three years they issued their

¹ <http://whc.unesco.org/en/list/184>

² <http://whc.unesco.org/en/list/183>

own coins in an unusual alloy of copper, tin and arsenic. These coins are mainly found in Libya and Tunisia. Some of these coins carry the Greek inscription LYBION (the first appearance of the name *Libya* on coinage.)

Following the destruction of Carthage by the Romans in 146 BCE, Roman coinage circulated in this region. There were no Roman mints in Libya, so the coins would have come mainly from Italy. Following the fall of the Roman Empire in the West, the Vandals briefly ruled Tripolitania, with Carthage as their capital. Conquered by the Byzantine empire in 534 CE³, the region fell to Arab Muslim invaders in 698.

Cyrenaica

The *Jebel Akhdar* or “Green Mountains” of Libya stretch eastward from Benghazi for a hundred miles (160 km) along the coast. With an average annual rainfall of 15-20 inches (375-500 mm) these limestone hills are the most forested region of North Africa. In ancient times, before centuries of overgrazing and erosion stripped the ground cover, they were even greener. About 630 BCE, colonists from the Aegean island of Thera founded Kyrene (or Cyrene⁴) in a valley about ten miles (16 km) from the coast.

Kyrene’s prosperity was based on its monopoly of a prized medicinal plant, *silphium*, which became extinct in antiquity. The plant and its seeds feature prominently on the coinage of the city. Because Crete was often administered as part of Cyrenaica, coins of Kyrene have often been found there.

Kyrene is designated as a UN World Heritage Site⁵ but this has not protected it from the breakdown of order following the overthrow of the Gaddafi regime. In May, 2011 thieves using jackhammers stole a national collection (364 gold coins, 2,433 silver coins, 4,484 bronze coins, 306 pieces of jewelry and 43 other antiquities) from a bank vault in

³ Carthage was an important Byzantine mint for over a century, striking a large volume of gold, silver and bronze coinage

⁴ The city gave its name to the surrounding province of Cyrenaica

⁵ <http://whc.unesco.org/en/list/190>

Benghazi⁶. Discovered by Italian archaeologists during the 1920's and 30's, this "Benghazi Treasure" was returned to Libya in 1961 but had never been properly documented or photographed. In 2013 it was reported that local residents were bulldozing ancient tombs to clear land for development. "Ancient artefacts were thrown into a nearby river as if they were mere rubbish."⁷

References

Buttrey, Theodore V. "The Coins and the Cult." *Expedition* 34 (1992)

Carradice, Ian and Susan La Niece. "The Libyan War and Coinage: a new hoard and the evidence of metal analysis." *Numismatic Chronicle* 148 (1988)

Jenkins, G. K. and R. B. Lewis. *Carthaginian Gold And Electrum Coins* (Royal Numismatic Society Special Publication No. 2.) London. 1963

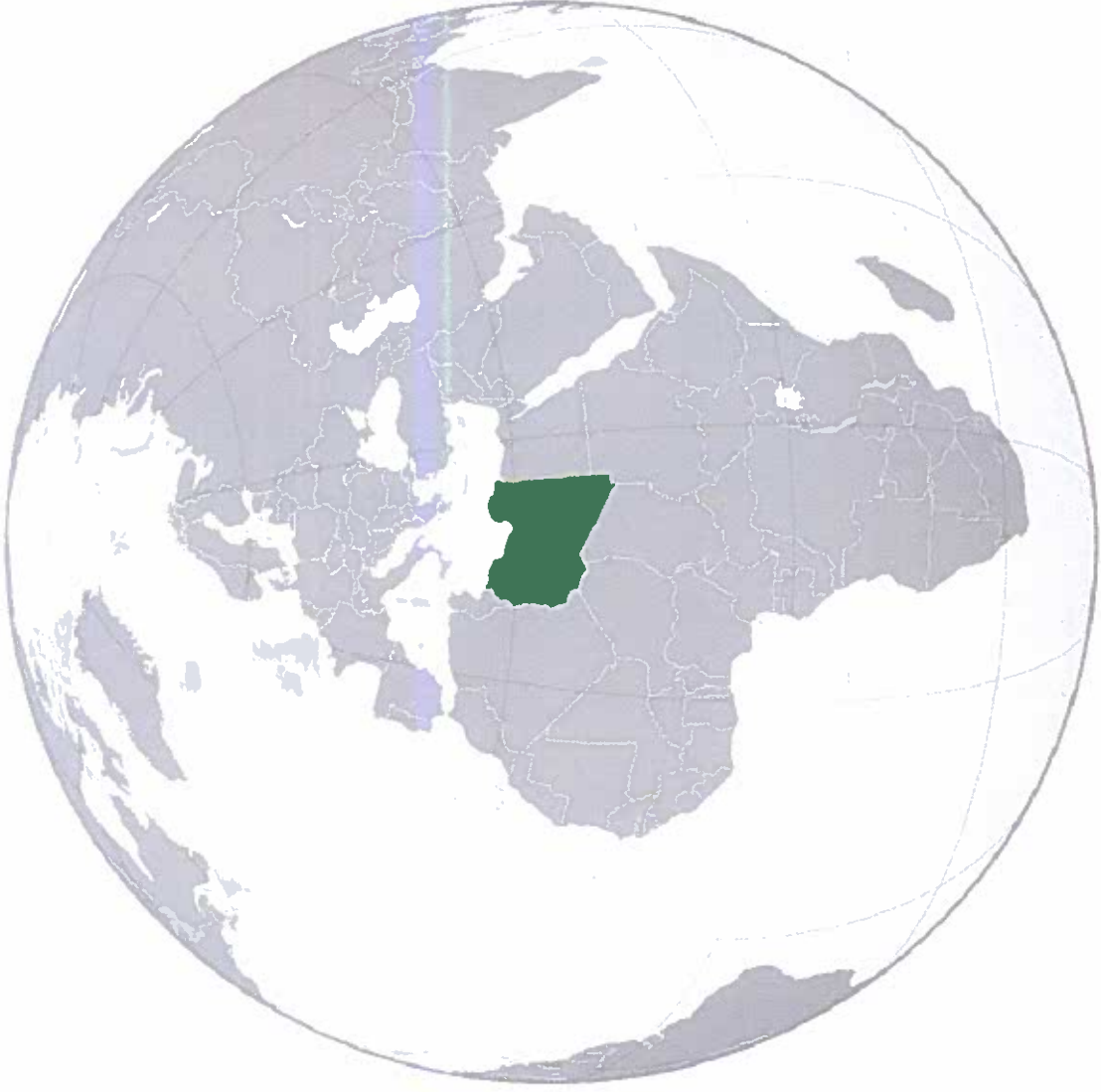
Robinson, E.S.G. *A Catalog of the Greek Coins in the British Museum, The Greek Coins of Cyrenaica*. London. (1927)

Viola, Mauro. *Corpus Nummorum Punicorum*, Numismatica Varesi, Rome, (2010)

⁶ <http://traffickingculture.org/encyclopedia/case-studies/benghazi-treasure/>

⁷ <http://observers.france24.com/content/20130823-ancient-libyan-necropolis-threatened-cyrene>

Modern Libya



Empire of Carthage 264 BCE



https://en.wikipedia.org/wiki/Ancient_Carthage

Ptolemaic Egypt



Saharan Pastoral Nomads

Ptolemaic Empire, 200 BC

IGCH 2281

Closing date: 238 B.C



2281 Tunisia, 1928
(1139)

Burial: 238 B.C.

Contents: 39 AE

Carthage: 21 unc. mint (as SNGCop. 226)

17 Libyan mint (as SNGCop.

244 [12]; 235 [2]; 233 [3])

1 Sardinian mint (as SNGCop.

246)

Disposition: London 15, Copenhagen 5

(SNG 226-30 "Tripoli hoard")

Robinson, NC 1943, p. 6

Said to have been found at Tripoli, Libya,

but really from Tunis (E.S.G.R.)

IGCH 2294

Closing date: 230 B.C. - 200 B.C.



2294 Wadi Sofeggin, 250 km. SE of Tripoli, 1965

Burial: late 3rd cent. B.C. (Jenkins)

Contents: 32 AE

Carthage: 31 Sardinian mint (as SNGCop.

144 [6]; 192 [25])

1 Carthage mint (as SNGCop. 307)

Disposition: Tripoli

di Vita, *Libya Antiqua* 1966 Suppl., p. 80, illus.

IGCH 2282

Closing date: 238 B.C.

2282 Tunisia, unc. locality c. 30 km. from
Tunis, 1952

Burial: 238 B.C. (Robinson)

Contents: 5 EL, 112 AR. Pot hoard

Carthage: 3 EL one-and-a-half-shekels

2 EL half-shekels

1 AR three-shekels

3 AR two-shekels

12 AR shekels

4 AR half-shekels

(from total 41 specimens)

Libyans: 6 AR two-shekels

11 AR shekels

(from total 71 specimens)

ANS 1953.89.1

Disposition: London 6; Copenhagen 1;

Lewis 5 EL, AR; New York 1 (Libya)

Robinson, NC 1953, pp. 27-32, illus. (details of
27 coins); NC 1956, pp. 9-14, illus. (details
of 14 specimens)

Jenkins-Lewis, Carthage, p. 60, hoard XIX, cat.
nos. 402-3, 431, 451-2



EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA *

Plaintiff, *

vs. *

Case No.: CCB-13-1183

**Three Knife-Shaped Coins,
Twelve Chinese Coins, and
Seven Cypriot Coins,** *

Defendants *

DECLARATION OF ROBERT KORVER

1. I was appointed by President George W. Bush to serve as an expert in the international sale of cultural property on the United States Cultural Property Advisory Committee (“CPAC”). I served in that capacity from 2003 to 2009. During that period, CPAC reviewed applications by the People’s Republic of China for new import restrictions on cultural artifacts and requests made by the Republic of Italy and the Republic of Cyprus for the extension of then current restrictions.

2. I have an extensive background in numismatics. I was the Director of Heritage Numismatic Auctions, Inc. from 1996 to 2003, and until 2015 I produced marketing and corporate communications for Heritage Auction Galleries. My previous numismatic experiences include work with the National Numismatic Collections of the Smithsonian Institution, National Museum Of American History; Auction Director of Bowers & Ruddy Galleries, Inc.; NumusWest, Inc. of Pasadena, CA & Reston, VA, and Alkmaar Associates; Marketing Fellow at the Colonial Williamsburg Foundation; a program

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manager at the Franklin Mint; and as PC systems manager, director of marketing, and chief editorial writer at Coin Dealer Newsletter Publications.

3. In preparation for making this declaration, I reviewed the following documentation: (1) the Convention on Cultural Property Act, 19 U.S.C. §§ 2601 *et seq.*; (2) The Declaration of Jay Kislak, dated April 20, 2009; (3) The decision of the Fourth Circuit Court of Appeals in *Ancient Coin Collectors Guild v. U.S. Customs and Border Protection*, 698 F.3d 171 (4th Cir. 2012); (4) portions of a Transcript of March 21, 2011 Public Forum that I attended entitled, “The Cultural Property Implementation Act: Is it Working?”; (5) the Spink Invoice of Cypriot and Chinese coins that are the subject of this forfeiture action; and (6) the Expert Report of Douglas Mudd, dated August 20, 2015. It is my understanding that pertinent parts of all this material has previously been supplied to the Court in this action and that the Kislak Declaration was placed in the record before the 4th Circuit and specifically referenced in the Guild’s opening brief and at oral argument before that Court.
4. As a CPAC member, I became generally familiar with the CPIA and the operation of U.S. law related to the imposition of import restrictions on cultural artifacts.
5. CPAC was constituted under the CPIA to recommend an informed balance between efforts to control looting at archeological sites and the legitimate international exchange of cultural artifacts. As part of its duties, if CPAC recommends that the United States enter into or extend a current Memorandum of Understanding with a UNESCO State Party, CPAC must also provide advice as to what particular types of archaeological and ethnological artifacts should covered by such an agreement. *See* 19 U.S.C. § 2605 (f) (4) (B). CPAC is then charged with submitting a copy of its report to both the President and

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Congress (although it unclear whether Congress receives these recommendations). *See id.* § 2605 (f) (6). In addition, the President (or his delagee) is then in turn to inform the Congress of any differences between the views and recommendations contained CPAC's report and the President's own actions and the reason for any departure from CPAC's recommendations. . *See* 19 U.S.C. § 2602 (g) (2).

6. From my review of Mr. Kislak's declaration, the transcript of the public forum and my own personal recollection as a CPAC member when the Committee considered import restrictions on Cypriot coins, I can state unequivocally that CPAC voted against extending import restrictions to ancient coins of Cypriot types and that official documentation that suggests that CPAC supported extending such import restrictions to Cypriot coins is false and misleadingly.
7. I can also state that although the CPIA requires that CPAC be afforded a role to recommend what types of archeological or ethnological material may be subject to restrictions, thereafter CPAC was not afforded the opportunity to make a recommendation as to whether Chinese coins should be placed on any designated list associated with a MOU with the People's Republic of China.
8. Without revealing any details of what information CPAC specifically reviewed, I will note that given the undisputable facts set forth in the Mudd Expert Report, CPAC could not conclude that Chinese and Cypriot coins of the types at issue here were first discovered within and subject to the export control of those two countries as required under 19 U.S.C. § 2601(2).
9. For these reasons, the Fourth Circuit has made a serious misstatement of fact when it stated that:

“CPAC and the Assistant Secretary did consider where the restricted types may be generally found as part of the review of the Chinese and Cypriot requests. CBP listed the articles in question in the Federal Register by “type”—but only after State and CPAC had determined each type was part of the respective cultural patrimonies of China and Cyprus.... Plaintiffs have given us no reason to question CPAC’s conclusion, as adopted by State, as to where the types of cultural property at issue were discovered. To the contrary, it was hardly illogical for CPAC to conclude that, absent evidence suggesting otherwise, Chinese and Cypriot coins were first discovered in those two countries and form part of each nation’s cultural heritage.” 698 F.3d at 182.

10. I have read this statement and everything in it is true, accurate, and correct to the best of my knowledge. I have had the chance to make any corrections, additions, or deletions that I desire.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief. 28 U.S.C. § 1746.



Robert Korver

Dated: May 22, 2016