

Odyssey Marine Exploration comments on WikiLeaks information

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Odyssey Marine Exploration, Inc. a pioneer in the field of deep ocean exploration, was named in several U.S. State Department cables obtained by WikiLeaks and furnished to the media worldwide. Some of the released cables suggest that the State Department offered special assistance in the "*Black Swan*" case to Spanish officials in exchange for assistance in acquiring a French painting confiscated by the Nazis during World War II and now controlled by Spain.

The cables indicate that the U.S. Government also provided confidential documentation on Odyssey to Spain. Other State Department cables contradict Spain's claims and support Odyssey's previously stated version of events relating to the company's activities in Spain, including the HMS *Sussex* project and the boarding of Odyssey's vessels.

"While we are obviously concerned about these implications regarding the "*Black Swan*" case, we are attempting to obtain additional information before taking any specific actions. I have personally sent a letter to the Secretary of State, Hillary Rodham Clinton, requesting additional information and a review of the position taken by the U.S. in the '*Black Swan*' legal case," stated Greg Stemm, Odyssey CEO. "The possibility that someone in the U.S. Government came up with this perfidious offer to sacrifice Odyssey, its thousands of shareholders, and the many jobs created by the company in exchange for the return of one painting to one individual is hard to believe. The WikiLeaks cables clearly show that we have worked cooperatively and transparently with both Spain and the State Department for many years, in spite of claims to the contrary. That fact makes the revelations all the more disappointing. The cables also make us wonder what other agreements may have taken place between U.S. Government officials and Spain regarding the amicus brief filed in support of Spain's position in the '*Black Swan*' case."

"We've wondered why the United States changed its long standing position on sovereign immunity, which prior to this case was consistent with U.S. law, international law and U.S. naval regulations that in order for a foreign country's ships and cargo to be immune from the jurisdiction of the U.S. courts they must be engaged in military, non-commercial activities," stated Melinda MacConnel, Odyssey Vice President and General Counsel. "These released cables do call into question the motivation behind the amicus brief filed by the Executive Branch supporting Spain in the '*Black Swan*' case."

Additional cables released support Odyssey's statements that, contrary to allegations of certain Spanish officials, the company always cooperated with the Spanish Government and that permits from the Spanish government were granted for work on the HMS *Sussex* project. The cables also demonstrate the obstructionist activities carried out by certain Spanish officials who had personal reasons for trying to prevent Odyssey from working on the *Sussex*. These obstructions took place even though Odyssey has an exclusive contract for the archaeological excavation of this UK sovereign immune warship (which was on a strictly military mission when it sank in 1694 off the coast of Gibraltar). Odyssey filed an affidavit in 2007 with a chronology of

Odyssey's interactions with the Spanish Government since 1998. It can be accessed at <http://shipwreck.net/pdf/ExhibitE.pdf>. The document contains entries that are corroborated by information in the State Department cables, which directly contradict claims by some Spanish officials and the Spanish media.

About the "Black Swan"

In May 2007, Odyssey announced the discovery of the "*Black Swan*," a Colonial-period site located in the Atlantic Ocean which yielded over 500,000 silver coins weighing more than 17 tons, hundreds of gold coins, worked gold, and other artifacts. Odyssey completed an extensive pre-disturbance survey of the "*Black Swan*" site, which included recording over 14,000 digital still images used to create a photomosaic of the site.

The coins and artifacts were brought into the United States with a valid export license and imported legally pursuant to U.S. law. Odyssey brought the artifacts under the jurisdiction of the U.S. District Court by filing an Admiralty arrest action. This procedure allows any legitimate claimant with an interest in the property to make a claim.

The Kingdom of Spain filed a claim to the treasure alleging that the coins originated from the *Nuestra Senora de las Mercedes*, a Spanish naval vessel which sunk in 1804. Spain claimed that it owned all of the coins and that the treasure was immune from the jurisdiction of the U.S. Court under the Foreign Sovereign Immunities Act (FSIA). Although it has not been conclusively proven the recovered cargo came from the *Mercedes*, Odyssey presented clear evidence to the trial court (including the ship's manifest) that shows the primary purpose of the *Mercedes*' last voyage was commercial in nature and the vast majority of coins on board were owned by private merchants, not by Spain. The United States filed an amicus brief in the case changing its previous position and supporting Spain in the "*Black Swan*" case by setting forth a re-interpretation of the language in the Sunken Military Craft Act (SMCA) to allow government owned vessels on commercial missions to enjoy sovereign immunity.

A number of individual private descendants (whose ancestors were transporting goods on the *Mercedes*) as well as the country of Peru have filed claims in the case.

Without conducting a hearing, the district court sided with Spain and ruled that the treasure should all be turned over to Spain. The case is currently on appeal at the Eleventh Circuit.

For more information on the "*Black Swan*," visit www.shipwreck.net/blackswan.php.

Odyssey's significant legal filings in the *Black Swan* case can be viewed at <http://www.shipwreck.net/blackswanlegal.php>.

<http://www.rovworld.com/modules.php?name=News&file=article&sid=5043>