UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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| IN RE: FRAMED PAINTING TITLED “PORTRAIT OF A LADY” DATED “ANNO 1628”, BY MELCHIOR GELDORP | ::: | STIPULATION AND ORDER |
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WHEREAS, the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (“ICE”), Homeland Security Investigations (“HSI”) and the United States Attorney’s Office for the Southern District of New York (“USAO”) have determined the following facts:

1. The painting that forms the subject of this Stipulation and Order (the “Painting”) is a work by Melchior Geldorp (“Geldorp”) titled “Portrait of a Lady” and dated “Anno 1628” and inscribed “AETATIS 44 (ur).”

**HISTORY OF THE PAINTING**

1. On or about April 19, 1935, Doctor Jan and Olga Poplawski (collectively, the “Poplawskis”), sold ninety-five paintings, including the Painting, to the Government of the City of Warsaw, Poland. The City agreed to display eighty-five of the paintings, including the Painting, at the National Museum in Warsaw (the “Museum”).
2. Upon its transfer to the Museum, the Painting received Museum inventory number 35816.
3. In 1936, the Museum held an exhibition showcasing the Poplawski Collection, including the Painting. As part of the exhibition, a catalog titled the Catalogue of the Exhibition of Paintings from the Collection of Dr. Jan Poplawski[[1]](#footnote-1) (the “1936 Catalog”) was published. The Painting was listed in the 1936 Catalog under inventory number 35816.
4. In 1938, the Painting was again listed in a catalog of works at the Museum, titled the Catalogue of Foreign Painting in MNW.[[2]](#footnote-2)
5. At some point during World War II, the Painting was removed from the Museum, likely by the occupying authorities of Nazi Germany, or by looters late in the war.
6. In 1949, the Vice Director of the Museum confirmed in a letter to Janina Poplawski, which was to be provided to the Government of the City of Warsaw, that forty-five paintings from the Poplawski collection, including the Painting, were lost during the war.
7. The Painting was subsequently listed in the database of cultural assets lost as a result of World War II that is maintained by the Polish Ministry of Culture and National Heritage.

**OWNERSHIP OF THE PAINTING**

1. Up to 1945, the Museum had been a communal institution of the City of Warsaw, after which point it and all of its collections became an institution of the country of Poland pursuant to a ruling dated May 7, 1945 on the nationalization of the Museum. As a result of that ruling, all of the Museum’s holdings became the property of the country of Poland.
2. In a motion to the Polish Minister of Finance dated December 31, 1987, the Museum petitioned the Minister of Finance for the custodianship of objects deposited in the Museum in the years 1916–1948 by institutions which no longer existed at the time.
3. In or about 1989, the Polish Minister of Finance issued a decision on the December 31, 1987 motion which makes clear that the Painting, among other items, belong to the Polish State Treasury and are entrusted to the Museum.

**CURRENT LOCATION OF THE PAINTING**

1. In or about November 2006, Roy Craig Gilmore (“Gilmore”) purchased the Painting at an auction conducted by a New York City auction house.
2. At the time of the sale to Gilmore, the Painting was identified as being in the Manner of Paulus Moreelse entitled “Elegant Lady Wearing a Millstone Ruffle.”
3. After the sale of the Painting Gilmore and his partner, David Crocker (“Crocker”), purchased an antique frame for the Painting that still remains affixed to the Painting.
4. After being advised by HSI that the Painting was stolen Gilmore and Crocker, individually and jointly, voluntarily agreed to turn over the Painting with the antique frame to HSI. Gilmore and Crocker further voluntarily agreed, individually and jointly, to relinquish all right, title, and interest they may have in the Painting and frame and to take such steps as are necessary for HSI to return it to the Government of Poland and the custody of the Museum.
5. On October 11, 2016, HSI Special Agents took possession of the Painting and frame from Gilmore and Crocker.

WHEREAS, Gilmore and Crocker, individually and jointly, represent that they had no knowledge, at the time of the purchase of the Painting or at any other time prior to being contacted by HSI, that the Painting was stolen;

WHEREAS, Gilmore and Crocker, individually and jointly, wish to have the Painting returned to the rightful owner and have agreed to voluntarily relinquish all right, title, and interest they may have in the Painting and the frame; and

WHEREAS, the USAO, HSI, Gilmore, Crocker, and the Republic of Poland have agreed that the Painting and frame should be returned to the custody of the Museum and the Republic of Poland;

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned parties, as follows:

1. The United States shall cause the Painting and frame to be transferred to the Republic of Poland for return to the custody of the Museum.
2. Gilmore and Crocker, individually and jointly, voluntarily relinquish all of their right, title and interest in the Painting and frame.
3. Gilmore and Crocker, individually and jointly, are hereby forever barred from asserting, or assisting others in asserting, any and all claims, actions, proceedings, suits, proceedings, debts, dues, contracts, judgments, damages, and/or demands whatsoever in law or equity against the United States of America (“USA”), the DHS, ICE, HSI and Customs and Border Protection (“CBP”), the Department of Justice (“DOJ”), the USAO, and/or any agents, officers, contractors, and employees of the USA, the DHS, ICE, HSI, CBP, the DOJ, or the USAO, in connection with or arising out of the seizure, restraint, possession and/or constructive possession and/or transfer of the Painting and frame, or out of the transfer of the Painting and frame to the Republic of Poland and/or the Museum, including, but not limited to, any claim that Gilmore or Crocker are prevailing parties, or that Gilmore and Crocker are entitled to attorney’s fees or any award of interest or any other costs.
4. This Stipulation and Order shall in no way be deemed an admission of culpability, liability, or guilt on behalf of Gilmore or Crocker.
5. Gilmore and Crocker, individually and jointly, represents that they are the only persons, aside from the Museum or the Republic of Poland, with any potential ownership interest in the Painting and frame, and agree to release, indemnify, and hold harmless the USA, the DHS, ICE, HSI, CBP, the DOJ and the USAO, as well as any and all employees, officers, contractors, and agents, past and present, of the USA, the DHS, ICE, HSI, CBP, the DOJ and the USAO, from any and all claims in connection with or arising out of the detention, seizure, restraint, possession and/or constructive possession and transfer of the Painting and frame, or out of the transfer of the Painting and frame to the Republic of Poland, including, but not limited to, any third-party claims of ownership of the Painting and frame by any party other than the Republic of Poland.
6. Each party to this Stipulation and Order shall bear its own legal and other costs incurred in connection with the instant matter or any related matter.
7. This Stipulation and Order represents the complete agreement of all the parties signing this Stipulation and Order and cannot be amended with the express written consent of all the parties.
8. The signature page of this Stipulation and Order may be executed in one or more counterparts, each of which will be deemed an original but all of which together will

constitute one and the same instrument. Faxed, scanned and emailed copies shall be treated as originals.

Agreed and consented to:

PREET BHARARA

United States Attorney for the

Southern District of New York

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JENNIFER GACHIRI Date

Assistant United States Attorney

One St. Andrew’s Plaza

New York, New York 10007

Tel. (212) 637-2209

ROY CRAIG GILMORE

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 ROY CRAIG GILMORE Date

DAVID CROCKER

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 DAVID CROCKER Date

So Ordered:

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United States District Judge Date

Southern District of New York

1. This is a translation of the official catalog title which is “Katalog Wystawy Obrazów ze zbiorów Dr. Jana Poplawskiego.” [↑](#footnote-ref-1)
2. This is the translation of the official catalog title which is “Katalog Galerii Malarstwa Obcego MNW.” The letters MNW in the name of the catalog references the Museum. [↑](#footnote-ref-2)