UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

| ANCIENT COIN COLLECTORS GUILD, et al., |) |
|--|------------------------------------|
| Plaintiffs, |)) Civil Action No. 07-2074 (RJL) |
| v. |) |
| UNITED STATES DEPARTMENT OF STATE, |)) |
| Defendant. |) |
| |) |

PLAINTIFFS' STATEMENT OF MATERIAL FACTS NOT IN DISPUTE

Pursuant to Local Rule 7.1 and 56, Plaintiffs, the International Association of Professional Numismatists ("IAPN"), the Professional Numismatists Guild ("PNG"), and the Ancient Coin Collectors Guild ("ACCG"), by and through undersigned counsel, hereby submits its Statement of Material Facts Not in Genuine Dispute in support of its Cross-Motion for Summary Judgment:

- 1. Count I of this action pertains to FOIA requests made on July 30, 2004 and October 11, 2007, in which Plaintiffs sought from Defendant U.S. Department of State ("State") four reports of the CPAC, which was assigned FOIA No. 200402941. See Compl. at ¶22-24.
- 2. Count II of this action pertains to FOIA requests made on March 29, 2005 and October 11, 2007, in which Plaintiffs sought from Defendant State "a copy of the original Chinese Request for import restrictions pursuant to the 1970 UNESCO Treaty, in Chinese, which Request formed the basis of the PUBLIC SUMMARY" which was assigned FOIA No. 200501372. See Id. at ¶26-27, 31.

- 3. Count III of this action pertains to FOIA requests made on July 6, 2005 and November 11, 2007, in which Plaintiffs sought from Defendant State records concerning the People's Republic of China's request for import restrictions and/or coins between CPAC staff and members of the Archaeological Institute of America or the Lawyers' Committee for Cultural Heritage Preservation, including but not limited to Prof. Patty Gerstenblith, Ellen Hersher, Jane Waldbaum and Prof. Malcolm Bell during the period of March 27, 2004 through and including December 28, 2004. See Id. at ¶33, 39. Plaintiffs also sought any and all documents evidencing the inclusion of coins in the list of items proposed to be restricted in response to the Chinese request for import restrictions, generated during the period of March 27, 2004 through and including December 28, 2004. Id. Defendant assigned this request FOIA No. 200502767. See Id. at ¶34.
- 4. Count VI of this action pertains to FOIA requests made on January 20, 2006 and October 11, 2007, in which Plaintiffs sought from Defendant State the report of the CPAC as well as any dissents that led to the Extension of Import Restrictions on Certain Categories of Archaeological Material Representing the Pre-Classical and Imperial Roman Periods of Italy, which was assigned FOIA No. 200600298. See Id. at ¶¶ 45-47.
- 5. Count VII of this action pertains to FOIA requests made on July 25, 2007 and October 11, 2007, in which Plaintiffs sought from Defendant State the report of the CPAC and any dissents that led to the Extension of Import Restrictions on Pre-Classical and Classical Archaeological Objects and Byzantine Ritual Ethnological Material from Cyprus. (Public Meeting Date: January 25, 2007). The request also sought any documentation evidencing the extension of import restrictions to coins of Cypriot types for the period January 25, 2007 to July 31, 2007, any report to Congress with respect to the restrictions, as provided for in the

Convention on Cultural Property Implementation Act ("CPIA") § 303(g), any written communications (including e-mails) between staff of the Cultural Heritage Center and third parties (who are not State Department employees) with regard to the restrictions on coins, for the period November 1, 2006 to July 31, 2007, and any correspondence from attorney Theodore Rogers to the State Department with regard to a recusal request for Dr. Joan Connelly for the period December 1, 2006 to February 1, 2007. See Id. at ¶49, 51. Defendant assigned this Request No. 200704168. Id. at ¶ 50.

- 6. Count VIII of this action pertains to FOIA requests made on August 1, 2007 and October 11, 2007, in which Plaintiffs sought a copy of any request by the Republic of Cyprus for import restrictions on coins pursuant to Article 9 of the 1970 UNESCO Convention made in or about January 2007, which was assigned Request No. 200704596. See Id. at ¶\$53-55.
- 7. Count IX of this action pertains to a FOIA request made on October 11, 2007 in which Plaintiffs sought nine categories of information relating to import restrictions on material from Cypress. See Id. at ¶57. Defendant assigned this FOIA No. 2007006194. See Grafeld Decl. at 12.
- 8. The issues raised in this matter are of a public interest. See Declaration of Jay Kislak ("Kislak Decl.") at ¶ 9 (Attached as Exhibit A) and Exhibit B.
- 9. Release of the withheld information will increase the transparency of the CPAC and will not chill CPAC deliberations. See Kislak Decl. at ¶5-6.
- 10. Defendant has produced no e-mails that appear to have been located from a search of the computer of Maria Kouroupas and have produced only a few email chains that include emails from Ms. Kouroupas. See Exhibit C.

- 11. Defendant FOIA Staff did not actually conduct the search for electronic records relating to CPAC or ECA staff. Grafeld Decl. at 17-18.
- 12. The records found in the Under Secretary for Political Affairs Office concerned a ceremony held on July 19, 2007. Id. at 20-21.
- 13. Cypriot lobbing groups awarded then Undersecretary of State for Political Affaris Nicholas Burns with an award just days before Burns' subordinate, Dina Powell, signed an "action memo" authorizing import restrictions on coins of Cypriot type. See http://news.pseka.net/uploads/img/documents/PSEKA-

SAE_2007_Conference_EN_01_CEH_01.pdf (last visited April 7, 2009).

- 14. A private group, the Cyprus American Archaeological Research Institute ("CAARI"), worked with Cypriot officials on the renewal of import restrictions and their extension to coins. See "Cyprus American Research Institute Celebrate 30 Years," (dated May 29, 2008) available at: http://www.thecypriot.com/pages/tempalp.aspx?ID=676&sub=1 (last visited April 7, 2009) (Quoting CAARI's President, Gustave Feissel, as saying, "CAARI..., has been instrumental in the renewal of a Memorandum of Understanding between Cyprus and the US to restrict the import of Cypriot antiquities into the US, including for the first time ancient coins.").
- 15. CPAC Staff Director Maria Kouroupas was voluntarily interviewed for an article in Art & Auction Magazine which detailed her job description in detail. See Art & Auction, March 2002 attached as Exhibit J.
- 16. One of the comments about Ms. Kouroupas in Art & Auction refers to her as a "stealth fighter," a characterization quoted in the blog of Plaintiff ACCG's Executive Directors,

which is located at http://www.coinlink.com/News/ancients/the-phantom-opera/ (last visited April 2, 2009).

Dated: April 24, 2008 Respectfully Submitted,

/s/ Scott A. Hodes, D.C. Bar #430375 P.O. Box 42002 Washington, D.C. 20015 301-404-0502 413-641-2833 (fax)

Attorney for Plaintiffs