

UNRECORDED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

----- X

UNITED STATES OF AMERICA

INDICTMENT

- v. -

JACOB CHAIT,

17 Cr. ()
: 17 CRIM 105.

Defendant.

----- X

COUNT ONE
(Conspiracy)

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: FEB 15 2017

The Grand Jury charges:

Relevant Individuals and Entities

1. At all times relevant to this Indictment, JACOB CHAIT, the defendant, was involved in the management of an auction house located in Beverly Hills, California (hereinafter "Auction House #1") and served as the Head of Acquisitions for Auction House #1. Auction House #1 specialized in Asian art and antiques, including wildlife objects made from rhinoceros horn, and transacted business worldwide.

2. JACOB CHAIT, the defendant, along with others known and unknown, including co-conspirators not named herein, including co-conspirator-1 ("CC-1"), assisted in the operations of Auction House #1, including the acquisition of items to sell and the sale of those items at regular auctions in Beverly

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72. Between on or about February 14, 2012, and on or about February 22, 2012, JACOB CHAIT, the defendant, discussed a purchase price for the horns with Rhino Sellers #5 and #6.

73. On or about February 22, 2012, Auction Manager #2 sent an email to Rhino Sellers #5 and #6 acknowledging receipt of the photographs and stating: "I believe you have been talking with Jake. Unfortunately your expectations are too high for us."

74. On or about February 29, 2012, JACOB CHAIT, the defendant, sent an email to Rhino Sellers #5 and #6 with a link to a news story that appeared in the Los Angeles Times concerning the arrest and prosecution of those engaged in rhinoceros horn trafficking.

75. On or about March 21, 2012, JACOB CHAIT, the defendant, traveled to Manhattan for Auction House #1's annual auction at New York's Asia Week.

76. On or about March 21, 2012, JACOB CHAIT, the defendant, met in a private apartment in Manhattan with Rhino Sellers #5 and #6 during which time he examined the rhinoceros horns.

77. On or about March 21, 2012, CC-1, while in Manhattan, asked the Bookkeeper to arrange to wire personal funds from California to assist in the purchase of the rhinoceros horns.

78. On or about March 23, 2012, JACOB CHAIT, the defendant, spoke by telephone with Rhino Sellers #5 and #6 and offered to purchase the horns for approximately \$155,000.

Statutory Allegations

79. From at least in or about 2008, until in or about March 2012, in the Southern District of New York and elsewhere, JACOB CHAIT, the defendant, and others known and unknown, including CC-1 and Auction House #1, willfully and knowingly did combine, conspire, confederate, and agree together and with each other, to commit offenses against the United States, to wit, violations of Title 18, United States Code, Sections 554 and 2, and Title 16, United States Code, Sections 3372(a)(1) & (d), and 3373(d)(1) and (d)(3)(A)(i).

80. It was a part and object of the conspiracy that JACOB CHAIT, the defendant, and others known and unknown, including CC-1 and Auction House #1, would and did fraudulently and knowingly export and send from the United States and knowingly aid and abet in the export and sending from the United States merchandise, namely, rhinoceros horns, contrary to the laws and regulations of the United States, and would and did receive, conceal, buy, sell, and facilitate the transportation, concealment, and sale of such merchandise, prior to exportation, knowing the same to be intended for exportation contrary to laws and regulations of the United States, and would and did attempt

to receive, conceal, buy, sell, and facilitate the transportation, concealment, and sale of such merchandise, prior to exportation, knowing the same to be intended for exportation contrary to laws and regulations of the United States, in violation of Title 18, United States Code, Sections 554 and 2;

81. It was further a part and object of the conspiracy that JACOB CHAIT, the defendant, and others known and unknown, including CC-1 and Auction House #1, did knowingly export, transport, sell, receive, acquire, and purchase, and aid and abet the export, transport, sale, receipt, acquisition and purchase of, wildlife, to wit, CITES-protected rhinoceros, including endangered black rhinoceros, knowing that such wildlife was taken, possessed, transported and sold in violation of, and in a manner unlawful under, the laws and regulations of the United States, in violation of Title 16, United States Code, Sections 3372(a)(1) and 3373(d)(1)).

82. It was further a part and object of the conspiracy that JACOB CHAIT, the defendant, and others known and unknown, would and did knowingly make and submit false records, accounts, and labels for, and false identification of, wildlife, namely, rhinoceros horns, which were and were intended to be transported in interstate and foreign commerce, in violation of Title 16, United States Code, Sections 3372(d) and 3373(d)(3)(A)(i).

Overt Acts

83. In furtherance of the conspiracy, and to effect the illegal objectives thereof, JACOB CHAIT, the defendant, together with others known and unknown, including CC-1 and Auction House #1, committed and caused to be committed the following overt acts, among others, in the Southern District of New York and elsewhere.

Rhinoceros Horn Deal #1

84. On or about June 2, 2008, JACOB CHAIT, the defendant, emailed Foreign Antique Dealer #1 photographs of a black rhinoceros head mount, including a photograph showing the length of the horns, seeking assistance in selling the horns to a potential customer in Beijing.

85. On or about July 7, 2008, an employee of Auction House #1, acting at the direction of JACOB CHAIT, the defendant, and CC-1, sent an email entitled "Rhino head" from Auction House #1 to Foreign Antique Dealer #2, stating: "We are asking US\$100,000 and received an offer of US\$85,000, but we have not been paid for yet."

86. On or about July 12, 2008, the Bookkeeper printed out and retained a fax with handwritten Chinese characters from Rhino Buyer #1 stating that Rhino Buyer #1 agreed to pay \$85,000 to purchase the rhino head including the two horns.

87. On or about February 26, 2009, JACOB CHAIT, the defendant, met with Rhino Horn Buyer #1 at Auction House #1, provided Rhino Horn Buyer #1 with the rhinoceros horn mount, and directed employees of Auction House #1 to assist with packing and transporting the rhinoceros horn mount to the Los Angeles, California Airport, for the purpose of assisting Rhino Horn Buyer #1 in exporting the rhinoceros horn mount to China, which employees of Auction House #1 did, without declaration or permits required by law.

Rhinoceros Horn Deal #2

88. On or about March 12, 2009, JACOB CHAIT, the defendant, sent an email to CC-1 asking that someone measure two rhinoceros horns so that he could show them to Rhino Horn Buyer #2, a prospective buyer in New York, New York.

89. On or about March 30, 2009, the Bookkeeper forwarded CC-1 an email from Rhino Horn Buyer #1 which stated: "Dear friend, Please tell me the net weight (just Horn, without the wooden base). Tell me a best price and how to transport them to China. Thank you!"

90. On or about March 31, 2009, CC-1 sent an email in response to the Bookkeeper, stating:

The question of course is how to get them to China. It would probably depend on where in China and they should probably be hand carried. The number one thing would be to

get them sold and paid for then we can try and figure out who would take them to China.

99. Between on or about April 1, 2009, and on or about April 6, 2009, JACOB CHAIT, the defendant, and CC-1 exchanged emails concerning the possible sale of the two rhinoceros horns to Rhino Horn Buyer #2.

100. On or about April 9, 2009, the Bookkeeper sent an email to JACOB CHAIT, the defendant, and CC-1, providing the measurements of the rhinoceros horns being offered for sale.

101. On or about May 30, 2009, JACOB CHAIT, the defendant, and CC-1 packed and caused the packing of the two rhinoceros horns into a blue hard cover suitcase in the back room of Auction House #1 prior to CHAIT's outbound trip later that night to Hong Kong.

102. On or about May 30, 2009, JACOB CHAIT, the defendant, concealed, transported, exported, and carried two rhinoceros horns from the United States to Hong Kong without declaration or permits required by law.

103. On or about May 30, 2009, JACOB CHAIT, the defendant, sold and caused the sale of two rhinoceros horns weighing approximately 8 pounds to Rhino Horn Buyer #1.

Rhinoceros Horn Deal #3

104. On or about October 5, 2009, JACOB CHAIT, the defendant, sent an email to Rhino Horn Buyer #2 with the subject

line "Rhino," attaching photographs of the head of a black rhinoceros.

105. On or about October 21, 2009, JACOB CHAIT, the defendant, and others, charged \$14,000 to Rhino Horn Buyer #2's credit card.

106. On or about November 3, 2009, JACOB CHAIT, the defendant, sent an email to CC-1, stating: "I need a check made out to [Rhino Seller #1] for \$10,000 please. You can have [the Bookkeeper] give it to me and I will mail it. We got paid by [Rhino Horn Buyer #2] already."

107. On or about November 20, 2009, and in response to a request from Rhino Seller #1, JACOB CHAIT, the defendant, sent an email to Rhino Seller #1 stating that the address of Auction House #1 in New York was 267 5th Avenue, 11th Floor, NY, NY 10016.

108. On or about November 23, 2009, JACOB CHAIT, the defendant, knowingly made and caused the making of a false wildlife document that stated that the owner of the two black rhinoceros horns was Auction House #1 and falsely certified that Auction House #1 was located at a specified address on 5th Avenue in New York, New York, 10016.

Rhinoceros Horn Deal #4

109. Between on or about June 30, 2011, and on or about July 15, 2011, JACOB CHAIT, the defendant, purchased and received a set of two rhinoceros horns mounted on a wooden

plaque from Rhino Seller #2, through the California Antique Dealer.

110. On or about July 14, 2011, JACOB CHAIT, the defendant, sent an email to Foreign Antique Dealer #1, asking him to show the email to a potential rhinoceros horn buyer and attaching two photographs, each showing a rhinoceros horn with a tape measure, and stating that the large horn weighed 2,182 grams and the small horn weighed 1,420 grams.

111. On or about July 15, 2011, CC-1 sent an email to the California Antique Dealer stating:

We bought the rhino horns and have taken them off the backing. . . . You were supposed to have been sent a check for \$1500 as a finder's fee. The bookkeeper may be away while we are in China but I will follow up and make sure the check goes to you.

112. On or about July 28, 2011, JACOB CHAIT, the defendant, sent an email to Foreign Antique Dealer #2, thanking him for taking CHAIT out for dinner in Beijing and stating:

I also wanted to follow up on the other issue we talked about while at dinner regarding me selling your friend something. The weight of the two pieces is 3.6 kg total, how much would he be willing to pay per kilo? I would like to make a deal with these as quickly as possible so that I can arrange to get them to him which will take some time.

113. On or about July 28, 2011, JACOB CHAIT, the defendant, sent a second email to Foreign Antique Dealer #2 attaching two photographs, each showing a rhinoceros horn with a tape measure, and the Rhino Horn Diagrams.

114. On or about August 9, 2011, JACOB CHAIT, the defendant, received an email from Foreign Antique Dealer #2, stating: "[T]here is a client who would like to pay a price around 150,000usd (FOB Beijing) for your stuff, but he said better to give him a estimate how much would be the net weight (3.6kg minus weight of the tissue inside the long horn...)." ."

115. On or about October 14, 2011, JACOB CHAIT, the defendant, sent an email to CC-1 and another employee of Auction House #1 entitled "Rhino," stating:

661,500 was paid to [Foreign Antique Dealer #3] in cash yesterday for the pair. He was paid in RMB and deposited the money into [the Hong Kong Auction House's] China account yesterday. This is about 103,600 USD.

Someone will come pick up the pair next week.

116. On or about October 17, 2011, JACOB CHAIT, the defendant, sent an email acknowledging his receipt of an email dated the same day from Rhino Horn Buyer #3 entitled "Pick up" and stating that the following day a woman would "pick up the pair of horn for me!" CHAIT's response stated: "No problem, just have her ask for me at the front desk."

Rhinoceros Horn Deal #6

118. On or about October 17, 2011, employees of Auction House #1 opened a package containing two black rhinoceros horns weighing approximately 10 pounds sent from Rhino Seller #4 in Pennsylvania.

119. On or about November 3, 2011, JACOB CHAIT, the defendant, sent an email to Foreign Antique Dealer #3 providing the measurements and weight of the two black rhinoceros horns being offered for sale.

120. On or about November 7, 2011, CC-1 instructed the Bookkeeper to pay \$25,000 to Rhino Seller #4 located in Pennsylvania.

Rhinoceros Horn Deal #8

121. On or about December 8, 2011, a managerial employee of Auction House #1 spoke with Rhino Sellers #5 and #6, about the possible purchase of rhinoceros horns.

122. Between on or about February 8, 2012, and on or about February 14, 2012, JACOB CHAIT, the defendant, made calls to and received calls from Rhino Sellers #5 and #6 in Manhattan.

123. On or about February 12, 2012, Auction Manager #2 sent an email with photographs of the rhinoceros horns being offered for sale by Rhino Sellers #5 and #6, including a photograph of Rhino Seller #6 holding the two rhinoceros horns, to JACOB CHAIT, the defendant.

124. On or about February 14, 2012, JACOB CHAIT, the defendant, sent Foreign Antique Dealer #2 an email with the subject line "New ones," stating:

I just got these photos but I also just found out the price they are asking. \$300,000 USD for both which I think is insane. Biased [sic] on what you told me at 13.5 kg (which is the weight they told me, not verified in person by me) we can only sell them for the current market price of about \$250,000 USD.

I will try and get them for less than market but maybe we don't have any hope.

125. Between on or about February 14, 2012, and on or about February 22, 2012, JACOB CHAIT, the defendant, discussed a purchase price for the horns with Rhino Sellers #5 and #6.

126. On or about March 21, 2012, JACOB CHAIT, the defendant, traveled to Manhattan for Auction House #1's annual auction at New York's Asia Week.

127. On or about March 21, 2012, JACOB CHAIT, the defendant, met in a private apartment in Manhattan with Rhino Sellers #5 and #6 during which time he examined the rhinoceros horns.

128. On or about March 21, 2012, CC-1, while in Manhattan, asked the Bookkeeper to arrange to wire personal funds from California to assist in the purchase of the rhinoceros horns.

128. On or about March 23, 2012, JACOB CHAIT, the defendant, spoke by telephone with Rhino Sellers #5 and #6 and offered to purchase the horns for approximately \$155,000.

(Title 18, United States Code, Section 371.)

Forfeiture Allegation

129. As the result of committing the offense alleged in Count One of this Indictment, JACOB CHAIT, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

Substitute Asset Provision

130. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or

