

ODYSSEY AND THE LOST SPANISH TREASURE

When explorers found roughly \$500 million in sunken treasure they thought it was theirs to keep. Spain disagreed

By Susan Berfield

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efore dawn on Feb. 16, a semitrailer truck left a secret, well-protected compound outside Sarasota, Fla., loaded with nearly nine tons of 200-year-old silver coins. Three U.S. Marshals and a security detail hired by the government of Spain guarded the truck on its 60-mile drive to MacDill Air Force Base in Tampa. There, U.S. airmen unloaded it so the truck could return to Sarasota for the rest of the coins. In all, 17 tons of coins, packed into 551 white plastic buckets, were transferred to two Spanish C130 Hercules military planes. The planes took off the next afternoon and arrived at the Torrejon Air Base in Madrid 28 hours later.

On board one of the planes was James Goold, a slightly ruffled American lawyer who represented the Spanish government in a five-year fight to reclaim the coins lost to the sea two centuries ago. "When we landed, I was in a daze," says Goold. He had barely slept. There were no real seats, and he was too worked up to rest anyway. The coins, still in the buckets, were put into four armored trucks for the drive into Madrid. Police on motorcycles blocked off the highway. Helicopters flew overhead. The coins were brought to the headquarters of the Ministry of Culture; the building, constructed as a bank, had vaults where they could be stored. "Finally, the coins were back, and I was free," says Goold.

The 594,000 silver coins, as well as a couple hundred gold ones, had been recovered in the spring of 2007 from a Spanish shipwreck by Odyssey Marine Exploration, an American deep-sea treasure



Francis Sartorius's 1807 depiction of the sinking of the Mercedes

hunting company based in Tampa. Odyssey had hidden the coins, which could be worth as much as a half billion dollars, while it argued with the Spanish government over who owned them. It was a bitter fight waged in a federal court on U.S. soil. The two sides even tussled over the five-gallon buckets used to transport the coins. Spain finally agreed to pay Odyssey \$20 for each one. That's all that Odyssey has received for its \$2.6 million search-and-salvage operation.

Under international maritime law, if a wreck is found to be a warship sunk while on duty, its cargo remains the property of the ship's country of origin. Spain said Odyssey had taken the coins, as well as some artifacts, from the remains of the *Nuestra Señora de las Mercedes*, a 34-gun frigate that was attacked and sunk by the British navy off the coast of Portugal in 1804. After the loss, King Carlos IV joined the Napoleonic Wars, fighting against Britain, a decision with disastrous consequences for Spain.

Odyssey, which gave the site the code name Black Swan, first claimed there wasn't enough evidence to prove the coins had been aboard the *Mercedes*. Then Odyssey argued that even if the shipwreck were the *Mercedes*, it had not been on a military mission when it sank, and three-quarters of its cargo was commercial. In the fight over the world's richest shipwreck, no judge ever ruled in Odyssey's favor. In February, Supreme Court Justice Clarence Thomas, who has jurisdiction over Florida, declined Odyssey's bid to delay the transfer.

The case, which set a small, high-profile, money-losing public company against governments in both Madrid and Washington, featured WikiLeaks revelations about U.S. diplomatic overtures and art stolen by the Nazis. It drew attention to the possibilities of profiting from deep-sea exploration using sophisticated robotic vehicles. And it convinced the co-founder and chief

executive officer of Odyssey, Greg Stemm, that if anything, his company's ambitions were not grand enough.

"It's a dramatic business," Stemm says. In the past 15 years, Odyssey has found five major shipwrecks and lost \$123 million. "We've spent more on wrecks we haven't found than the \$2.6 million we spent on the Black Swan. But people were furious we lost the coins. I've counseled Odyssey investors and staff on letting it go. The biggest successes will be ones we haven't even heard of."

Stemm, 55, is lanky, tanned, and relentlessly enthusiastic about Odyssey's prospects. He started out in public relations as a front man for Bob Hope. His own public relations staff has given up trying to manage him. Today, he's taken off for lunch at a restaurant near Odyssey's offices with a vague promise to be back for a meeting. He keeps his BlackBerry close. It's late March, and a crew is taking advantage of good weather in the North Atlantic to do some reconnaissance on a World War II British wreck that may hold as much as 7 million ounces of silver. "I could get a call any second telling me they've spotted the first silver bar," he says. "But I couldn't tell you I did." The phone doesn't ring. He orders sushi.

"You know all about my past," Stemm says. "If you don't, you can read about it." He is featured in a book published by Odyssey and was the subject of a more critical article in the *New Yorker*. Both describe an early, searing incident in his life. When he was seven and on summer vacation in Florida, he went out fishing with his grandfather. Their small boat capsized, and his grandfather drowned. Stemm calls this his own shipwreck.

He studied marine biology for two years at New College of Florida before dropping out to work with Hope. From there he moved into marketing and advertising; in the early 1980s he formed a real

estate company with a client named John Morris. In 1986, Stemm used \$100,000 of company money to buy an 85-foot research ship. Then he and Morris acquired five small, robot-operated vehicles, or ROVs, to search underwater and founded a company called Seahawk. "We realized there were no entrepreneurs in the deep ocean," says Stemm.

At first, Seahawk was hired by insurance companies to look for boats that had sunk under suspicious circumstances. In 1987, Stemm got a tip about a big shipwreck near the Dry Tortugas islands, 70 miles west of Key West. He and Morris put together a crew and set out using a map marked with an X. Three months later they found the ship in 1,500 feet of water. Excavating a wreck that deep requires a larger ROV, a bigger crew, and more money. Stemm and Morris decided to take Seahawk public. The stock began trading in 1989 for half a penny a share.

They hired a staff, including an archaeologist, and began excavating the site. Stemm believed they had discovered a treasure-laden Spanish galleon from 1622. He quickly publicized the find, and in the spring of 1990 stories appeared in publications around the world suggesting it could be worth hundreds of millions of dollars. Seahawk's stock price jumped. It turned out, though, that Stemm had found a wreck, but not a treasure. The artifacts included gold bars, coins, pearls, olive jars, and ceramics together worth no more than \$5 million and possibly much less. In 1994 the Securities and Exchange Commission sued Seahawk, Stemm, and Morris, alleging fraud and insider trading.

Seahawk settled with the SEC without admitting or denying the claims; a condition of the deal was that Stemm and Morris resign. The two executives decided to fight the allegations against them in court, and at the same time formed a new treasure hunting company, later named Odyssey. They took it public in September 1997, before their trial even began. After a jury found in their favor in November, some of the same investors came back, according to Stemm. Eventually Odyssey's investors included Fortress Investment Group, Raj Rajaratnam's Galleon Group, and BlackRock, which still holds a stake. "No one questions that there is a lot of wealth on the ocean floor," Stemm says. "People get shipwrecks. Everybody is interested in them."

Odyssey set up headquarters near the Tampa airport in an office building. Later, Stemm added a separate lab for studying and conserving artifacts. Odyssey hired



Stemm: "We're a shipwreck company like Apple is a computer company"

researchers, explorers, and marketers, and developed a database of some 6,000 shipwrecks, including 100 it estimates are worth at least \$50 million each.

Then Stemm, who didn't have much underwater experience, and his crew, some of whom were also learning on the job, set out with an ROV named *Zeus* to find some of the wrecks. Five years later, in 2003, Odyssey discovered a Civil War-era steamship, the *SS Republic*, so far its only profitable excavation. The *Republic* sank in 1865 in a storm 100 miles off the coast of Georgia. Most of the passengers survived.

Odyssey recovered about 52,000 gold and silver coins that it values at more than \$75 million. So far, it has sold \$43 million worth. It found buyers for the gold ones right away, and has been slowly working its way through its inventory of 47,000 silver coins. Twenty-seven thousand remain; they are collateral for bank loans of \$5 million.

Odyssey also pulled up about 14,000 artifacts, including glass candlesticks and bottles, porcelain figures, and ointment jars. Some are part of a traveling exhibition, most are in the company's lab. This is as much a marketing effort as it is ed-

ucational. The search for the *Republic* was part of a *National Geographic* television series. Odyssey still sells replicas of the gold coins and jewelry made from broken glass found at the shipwreck site. "It's easy to be cynical about building a brand around a shipwreck, but people are fascinated by it," says Stemm.

Odyssey is proud of its archaeological research, but has been unable to get any of its papers accepted into academic journals. Instead, it has published its findings on its own. "Treasure hunters are to archaeologists what astrologers are to astronomers," says Filipe Castro, a maritime archaeologist at Texas A&M University and a friend of Stemm's. "Greg wants to be respected, and he's very smart. But in treasure hunting there is a contradiction that can't be solved. It's impossible for them to study artifacts properly. It takes too much time. You can't maximize the acquisition of knowledge for your shareholders. And mining cultural heritage for profit is a savage thing."

Stemm is sensitive to this criticism, but confident. "Our goal is to do the best archaeology in the world and share it with the public and make a profit from it. You can combine profit with every other

field—even medicine," he says. He calls what Odyssey does "commercial marine archaeology" and considers the company an innovator in this regard.

Stemm approached Spain's Ministry of Culture in November 2006 to gauge their interest in a deal with Odyssey. According to an affidavit from a ministry official, Stemm asked for permission to recover cargo aboard any Spanish shipwrecks it might find. The official refused. Stemm and his lawyer dispute this, saying Odyssey never got a response from Spain. The company proceeded to search in international waters near Spain and Portugal.

One of Odyssey's search methods is called "mowing the lawn." Its ship moves back and forth over an area pulling a towfish behind it. The towfish, between 7 and 12 feet long and connected to the ship by a few miles of cable, is an acoustic mapping device that hits the seafloor with sound waves, translating the data into a topographical map. On board, someone monitors the feed day and night. The work is tedious and Odyssey's crew has thousands of hours of experience doing it. "Wrecks are found in the slightest turn of a shadow," says Stemm.

When it came to the so-called Black Swan found by Odyssey in March 2007, 100 miles west of the Strait of Gibraltar at a depth of 3,600 feet, "the first guy missed it, the second guy missed it," Stemm says. "The project manager saw it and marked it as a third-level priority. Even so, I doubt anybody else in the world would have seen it."

The project manager sent down *Zeus*, the robotic vehicle, to inspect the site. *Zeus*, which cost \$2 million and weighs eight tons, is equipped with video cameras, a manipulator arm, and a basket to carry cargo to the surface. What it brought up made Stemm's spine tingle: colonial-era silver and gold coins. On April 10, Stemm flew from Gibraltar to Tampa on a Gulfstream V with some of the coins to claim Odyssey's right to the shipwreck site in federal court. "We had no obligation to bring the wreck to a U.S. court," he says. "We could have taken it to the Cayman Islands or Morocco and started selling the coins."

Odyssey returned to the Black Swan later that month to recover as many coins as it could. It says it also recorded some 14,000 digital images to create a photo-mosaic of the site and excavated it under the supervision of qualified archaeologists. A film crew from the Discovery Channel, which produced a series called

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Treasure Quest, was on board, too. In the show Stemm turns over the coins in his hands and says: "They sat there for hundreds of years just waiting for us."

On May 16, Odyssey chartered a Boeing 757; the 551 plastic buckets of coins were strapped into the seats and stacked in the cargo hold for the trip from Gibraltar to Tampa. There they were taken to the secret warehouse in Sarasota. Two days later, Stemm announced Odyssey's discovery. Most news reports that followed cited coin expert Nick Bruyer's estimate that the trove could be worth as much as \$500 million. Odyssey's stock value increased by about 80 percent.

Stemm did his best to keep the location of the wreck secret. He said Odyssey wasn't sure which ship the cargo had been on because the wood hull had disintegrated. Yet he did expect that someone might claim part of the treasure. After Odyssey found the *Republic*, the company gave \$1.6 million to a still-existing insurance company that had paid off property claims after the ship sank and had rights to what remained on it.

On May 31, 2007, Goold, who is of counsel at Covington & Burling, filed an ownership claim on behalf of Madrid in the U.S. District Court in Tampa. "Odyssey was operating in such secrecy. It didn't take much to be concerned," says Goold.

Two months later, Spain received copies of export documents Odyssey had filed with Britain, which governs Gibraltar. Those stated that the cargo had been recovered in the Atlantic Ocean and included Spanish coins, none more recent than 1804, the year the *Mercedes* sank. In September, as a diplomatic cable turned over to WikiLeaks revealed, the U.S. Department of Homeland Security gave Spain confidential information from Odyssey's import files—including the precise

location of the site. Spanish naval experts had been reviewing the archives about the *Mercedes* and had plotted an eight-mile circle within which they believed the shipwreck lay. "When we got the information from Homeland Security, the GPS number was a bull's-eye," says Goold.

The disappearance of the *Mercedes*, which was returning to Spain from Peru, was fateful. "The *Mercedes* is the equivalent to the *USS Arizona* sunk in Pearl Harbor," says Goold. "It was a critical and tragic event that had far-reaching effects on Spain and the rest of Europe. No one would disturb the site of the *Arizona* and say coins from the desk drawer of the captain ought to go around the neck of curio collectors."

During the summer of 2007, Odyssey's two ships, the *Odyssey Explorer* and the *Ocean Alert*, were blockaded in the Port of Gibraltar by Spain. In October, Stemm invited a dozen journalists, including the *Discovery* film crew, aboard the *Explorer* as it tried to leave Gibraltar. As he expected, Spain's Guardia Civil intercepted the ship. They took it into custody for three days and searched it. The captain was jailed for a night for "severe disobedience." The *Ocean Alert*, which had set sail earlier, was also stopped and searched. Both ships were eventually allowed to leave.

Among the Odyssey crew that stayed with the ships in Gibraltar was Ernie Tapanes, the project manager who had spotted the anomaly on the ocean floor. In January 2008 he was sued for insider trading by the SEC. After Odyssey recovered some of the coins the previous spring, Tapanes, a consultant, and others signed a confidentiality agreement with the company and promised not to trade its stock. But, according to the SEC, Tapanes bought shares anyway and sold

them right after Stemm announced Odyssey's find, making a profit of \$107,000. Tapanes agreed to pay a \$216,000 settlement, without admitting wrongdoing. He still serves as a consultant to Odyssey.

As the fight between Spain and Odyssey continued into 2008, the U.S. ambassador to Spain, Eduardo Aguirre, met in June with Minister of Culture César Antonio Molina. According to U.S. embassy cables given to WikiLeaks, the ambassador suggested tying together Odyssey's claim to the treasure and an elderly American's claim to a painting taken from his family by the Nazis and bought by Spain in the 1990s. The painting, *Rue Saint-Honoré* by Camille Pissarro, was valued at about \$20 million. It hung in Madrid's Thyssen-Bornemisza Museum.

According to the cable, the ambassador noted that "it was in both governments' interest to avail themselves of whatever margin for maneuver they had, consistent with their legal obligations, to resolve both matters in a way that favored their bilateral relationship." The minister stressed that they were separate matters. The U.S. would go on to file a friend-of-the-court brief on behalf of Spain in the Odyssey case, citing the importance of upholding the principle of sovereign immunity (a government's immunity from claims for money damages). The painting still hangs in the museum in Madrid.

On June 3, 2009, the judge in Tampa found the Black Swan was actually the *Mercedes* and thus the property of Spain. Odyssey said the ruling "defies logic and reason" and that it would appeal. Still, within two days the company lost half its market value and Stemm and Odyssey President Mark Gordon met to discuss the company's future. (Morris had retired the previous year.) "We said, 'Well, what should we do now? Did

we pick the wrong business model or should we tweak it?'" Gordon recalls. They decided to tweak it. From then on, when Odyssey found a military shipwreck it would work out an arrangement with the government before bringing up any cargo. Usually, Gordon says, the rule of the sea is that the finders get to keep at least 80 percent of the treasure. "We won't take the risk of recovering a wreck where there's no deal," he says. "We wouldn't be that cavalier."

Stemm and Gordon made another decision that summer: Odyssey would apply its exploration skills to the business of mining in deep waters. It contributed some cash and services for a 30 percent stake in Neptune Minerals, which has secured rights from countries in the Pacific such as Papua New Guinea and Tonga to mine in the Ring of Fire, an area of intense volcanic and seismic activity. "It was exactly the right time for us to step in," says Stemm. "Today, two years later, we would be an also-ran. But we're among the pioneers in the field. We could utilize the same amount of time and money searching for a \$50 million shipwreck or a \$50 billion mineral deposit." Really, he says, Odyssey is no longer a shipwreck company: "We're a shipwreck company like Apple is a computer company."

So far, Odyssey has explored massive sulfide deposits rich in gold and copper that range from 2 million to 100 million tons, according to the company. Hydrothermal vents 3,000 or so feet below the surface pump out the minerals from the earth's core onto the seafloor. Eventually the vents extinguish themselves. It's around these dead vents that Odyssey has been exploring. "It's like the surface of the moon where we're grabbing from," says Gordon. "We'll be digging up

"Mining cultural heritage for profit is a savage thing," says archaeologist Filipe Castro

sand and rock. Could it cause some disturbance? Absolutely. But it will be nothing compared to the impact of mining on land. And those resources are being depleted anyway."

Odyssey has been hired by Chatham Rock Phosphate to survey deposits off the coast of New Zealand. Most of the world's phosphate, an essential component in fertilizer, comes from a politically unstable region of Morocco.

Odyssey doesn't expect to be involved in mining commercial quantities of gold or copper or phosphate, but Stemm believes that's not far off. "The business is about to explode," he says. "It's like offshore oil and gas drilling in the 1950s and 1960s. That was made possible by these crazy Cajuns in Louisiana. They figured out how to do it when industry didn't think it was possible. They were explorers. Shell didn't figure that s-t out."

This past fall and winter, as Odyssey had nearly exhausted the appeal process in the Black Swan case, it announced three deals with the British government to recover shipwrecks found in the Atlantic. The first two are straightforward modern salvage, no archaeology involved: the *SS Gairsoppa*, a World War II ship supposedly carrying 7 million ounces of silver, and the *SS Mantola*, sunk by a German torpedo during World War I with a cargo of 600,000 ounces of silver. Odyssey has just begun to recover the 80-pound silver bars from within the steel hull of the *Gairsoppa*. Together, says Gordon, the finds could be worth more than \$200 million. To fund its operations, Odyssey has relied on project financing from a group headed by Morris. If all goes as planned, they'll get back their investment of \$7.5 million and earn a profit of \$22.5 million. The British government gets 20 percent of the proceeds after Odyssey covers its costs.

The arrangement between the British and Odyssey about the third ship, the *HMS Victory*, is more complicated. The *Victory*, which sank in a storm in 1744,

was the most technically advanced ship of its time and carried a full complement of bronze cannon and perhaps as much as 100,000 ounces of gold. Odyssey has submitted a plan to Britain's Maritime Heritage Foundation for the archaeological study and recovery of the site and is awaiting final approval. Recently, though, prominent archaeologists in Britain have criticized the government for allowing Odyssey to "plunder" the *Victory*.

"This is the year we become a real company," says Gordon. "I know it sounds crazy. We've lost money for all these years and now we're talking about billions. But wait and see. We've got the mining and the shipwrecks. People will wake up and say, 'Holy crap. Greg and Mark were right.' We'll be vindicated."

Stemm hopes for more. "Everybody wants to get in on the ground floor of a business that can change the world," he says. "Everybody asks: What's the next Facebook, Google, Apple? What's big enough that people have missed? I believe our investors look at Odyssey that way."

Ken Fried first bought stock in Odyssey in 2004 when he worked for Fortress and now has a stake of his own. "The current consensus about Odyssey is that there is no business model," says Fried. "I believe there is. They have multibillion-dollar opportunities just in the shipwrecks. Odyssey can hand over culture to governments on a silver platter and governments get much-needed revenue. It's a perfect solution."

On May 15, the U.S. Supreme Court declined to consider Odyssey's request to retry the Black Swan case. "The Spanish government says it's not going to sell the coins," says Stemm. "We'll see. Coins don't make really good museum pieces. I think you'll see a real battle between archaeologists and people who say maybe Odyssey has the right idea." And if that comes to pass, he's willing to help. "I don't hold grudges," he says. "I don't remember when bad things happen." **B**

In 2007, unloading the coins in Florida. In Spanish hands, briefly, Odyssey's *Ocean Alert*, and, finally, the treasure of the *Mercedes*



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