

**AFFIDAVIT OF HAROLD F. CHORNEY**

I Harold F. Chorney being duly sworn, depose and says the following:

1. Harold F. Chorney is the Appellant in CA. NO. 89-11051 in the Bankruptcy Court in the District of Rhode Island.
2. In preparation of the Designation of the Record for an Appeal to the Bankruptcy Appellate Panel for the First Circuit, Appellant attempted to obtain copies of exhibits filed at the 2/15/96 Bankruptcy Court Hearing in CA. No. 89-11051.
3. Appellant was told that the court no longer had the exhibits that he was seeking, consequently Appellant is filing this Affidavit in response to the missing information.
4. Appellant received a copy of the pre-auction inventory from Warren Taft at the beginning of 1996. Upon information and belief, Mr. Taft obtained said inventory from Mr. Monzack, Chapter 7 Trustee.
5. Appellant already had a copy of the Ramapo Coin Exchange 1994 inventory and appraisal.
6. Appellant made a comparison by year and mint mark of silver dollars that were inventoried and appraised by Ramapo Coin Exchange in 1994 and the silver dollars inventoried and appraised for pre-auction estimates by Christies in 1995.
7. Previous to the comparison performed in paragraph #6 above, representations were made to Mr. Taft that the coins being shipped were the exact same coins that were inventoried and appraised by Ramapo Coin Exchange in February 1994. Mr. Taft told me that he had wanted an inventory of the coins taken prior to the coins being shipped to Christies in New York.
8. Mr. Taft performed his own comparison of the Ramapo and the Christies inventories at some point in time prior to the 2/15/96 Bankruptcy Court Hearing.

9. Upon completion of the comparison of the Ramapo and the Christie inventories, Appellant was convinced that the silver dollars that were offered for sale by Christies, were not the same silver dollars that were inventoried by Ramapo.

10. Even allowing for subjective differences in the grading of the silver dollars, the year and mint marks on the silver dollars do not match up. See Attached List.

I swear that the information contained in paragraphs 1-10 above are true or based upon information and belief that I believe to be true.

  
HAROLD F. CHORNEY

Sworn to me this 19<sup>th</sup> day of October, 2000

  
NOTARY PUBLIC

My comm expires 08-17-02

## **COMPARISON OF RAMAPO INVENTORY IN 1994 AND CHRISTIES INVENTORY IN 1995--AN OFFER OF PROOF**

In order to help understand various designations, the following should be helpful. If there is no letter designation after the date of a silver dollar, the dollar was minted in Philadelphia; if there is an S after the date, the dollar was minted in San Francisco. CC stands for Carson City, O for New Orleans and D for Denver. There are 122 standard different year and mint mark combinations. There are special instances like the 1900 O/CC, which is a recognized variety of one of the 122 standard varieties. In this instant case, since there are 1900 O/CC coins, there are 123 combinations.

Listed below are the differences in the counts of the coins taken by Christies and the inventory certified by Ramapo. These differences between the inventories taken by Christies and the inventories certified by Ramapo are irrefutable and are proof positive that the coins sold by Christies are actually different coins than the inventory certified by Ramapo. In 1994 Roger Herman certified the inventory for the Government and Robert Moffatt certified the inventory in 1994 for the Appellant.

A slight variance of the difference in number is possible between the Ramapo inventory and the Christies inventory since some of the coins were inventoried by Christies as being in a set containing 50 different years and mint marks. However, this variance would only account for a difference of one coin per year and mint mark for 50 different coins and would not explain the **massive differences** in years and mint marks like a difference of 25 coins dated 1880 or 58 coins dated 1887-0 listed below.

Those silver dollars minted between 1878 and 1921 inclusive are called Morgan Silver Dollars. Those silver dollars minted between 1921 and 1935 are called Peace Dollars. The Philadelphia mint issued both Morgan and Peace Dollars in 1921.

### **YEAR AND MINT MARK      DIFFERENCE FROM CHRISTIES MORGAN SILVER DOLLARS**

1879-0	RAMAPO HAS 1 MORE COIN
1879-S	RAMAPO HAS 1 MORE COIN
IN TOTAL RAMAPO HAD 2 MORE COINS DATED 1879 THAN CHRISTIES	

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1880                      RAMAPO HAS 25 MORE COINS  
1880-0                  RAMAPO HAS 3 MORE COINS  
1880-S                  RAMAPO HAS 1 MORE COIN  
1880-CC                RAMAPO HAS 1 MORE COIN  
IN TOTAL RAMAPO HAD 30 MORE COINS DATED 1880 THAN  
CHRISTIES

1881                      RAMAPO HAS 17 MORE COINS  
1881-0                  RAMAPO HAS 21 MORE COINS  
IN TOTAL RAMAPO HAD 38 MORE COINS DATED 1881 THAN  
CHRISTIES

IN TOTAL RAMAPO AND CHRISTIES HAD THE SAME TOTALS FOR  
EACH YEAR AND MINT MARK FOR THE YEAR 1882

1883                      RAMAPO HAS 2 MORE COINS  
1883-0                  RAMAPO HAS 1 MORE COIN  
IN TOTAL RAMAPO HAD 3 MORE COINS DATED 1883 THAN  
CHRISTIES

1884                      RAMAPO HAS 1 LESS COIN  
1884-0                  RAMAPO HAS 1 LESS COIN  
1884-S                  RAMAPO HAS 5 LESS COINS  
IN TOTAL RAMAPO HAD 7 LESS COINS DATED 1884 THAN  
CHRISTIES

1885                      RAMAPO HAS 21 LESS COINS  
1885-0                  RAMAPO HAS 28 MORE COINS  
1885-S                  RAMAPO HAS 14 LESS COINS  
IN TOTAL RAMAPO HAD 7 LESS COINS DATED 1885 THAN  
CHRISTIES

1886                      RAMAPO HAS 2 LESS COINS  
IN TOTAL RAMAPO HAD 2 LESS COINS DATED 1886

1887                      RAMAPO HAS 6 MORE COIN  
1887-0                  RAMAPO HAS 58 LESS COINS  
1887-S                  RAMAPO HAS 8 MORE COINS

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IN TOTAL RAMAPO HAD 44 COINS LESS DATED 1887 THAN  
CHRISTIES

1888 RAMAPO HAS 16 LESS COINS  
1888-0 RAMAPO HAS 6 LESS COINS  
1888-S RAMAPO HAS 15 MORE COINS  
IN TOTAL RAMAPO HAD 7 COINS LESS DATED 1888 THAN  
CHRISTIES

1889 RAMAPO HAS 13 LESS COINS  
1889-0 RAMAPO HAS 4 LESS COINS  
1889-S RAMAPO HAS 4 MORE COINS  
IN TOTAL RAMAPO HAD 13 COINS LESS DATED 1889 THAN  
CHRISTIES

1890 RAMAPO HAS 37 MORE COINS  
1890-0 RAMAPO HAS 16 LESS COINS  
1890-S RAMAPO HAS 21 MORE COINS  
1890-CC RAMAPO HAS 2 MORE COINS  
IN TOTAL RAMAPO HAD 44 COINS MORE DATED 1890 THAN  
CHRISTIES

1891 RAMAPO HAS 19 LESS COINS  
1891-0 RAMAPO HAS 1 MORE COIN  
1891-CC RAMAPO HAS 1 MORE COIN  
IN TOTAL RAMAPO HAD 17 LESS COINS DATED 1891 THAN  
CHRISTIES

1892 RAMAPO HAS 1 MORE COIN  
1892-0 RAMAPO HAS 1 MORE COIN  
1892-S RAMAPO HAS 1 MORE COIN  
IN TOTAL RAMAPO HAD 3 MORE COINS DATED 1892 THAN  
CHRISTIES

1893-CC RAMAPO HAD 1 LESS COIN  
IN TOTAL RAMAPO HAD ONE LESS COIN DATED 1893 THAN  
CHRISTIES

1894-S RAMAPO HAD 4 MORE COINS

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IN TOTAL RAMAPO HAD 4 MORE COINS DATED 1894 THAN  
CHRISTIES

1895-0                      RAMAPO HAD 1 LESS COIN  
1895-S                      RAMAPO HAD 1 MORE COIN  
IN TOTAL RAMAPO HAD THE SAME AMOUNT OF COINS DATED  
1895 AS CHRISTIES

1896                              RAMAPO HAS 7 MORE COINS  
1896-0                         RAMAPO HAS 1 LESS COIN  
IN TOTAL RAMAPO HAD 6 MORE COINS DATED 1896 THAN  
CHRISTIES

1897                              RAMAPO HAS 2 MORE COINS  
1897-0                         RAMAPO HAS 1 MORE COIN  
IN TOTAL RAMAPO HAD 3 MORE COINS DATED 1897 THAN  
CHRISTIES

1898                              RAMAPO HAS 1 COIN LESS  
IN TOTAL RAMAPO HAD ONE LESS COINS DATED 1898 THAN  
CHRISTIES

1899-0                         RAMAPO HAS 1 COIN MORE  
1899-S                         RAMAPO HAS 2 COINS LESS  
IN TOTAL RAMAPO HAD 1 LESS COIN DATED 1899 THAN  
CHRISTIES

1900                              RAMAPO HAS 2 LESS COINS  
1900-0                         RAMAPO HAS 19 LESS COINS  
1900-S                         RAMAPO HAS 2 LESS COINS  
1900 0/CC                     RAMAPO HAS 20 MORE COINS  
IN TOTAL RAMAPO HAD 3 COINS LESS DATED 1900 THAN  
CHRISTIES

1901                              RAMAPO HAS 2 MORE COINS  
1901-0                         RAMAPO HAS 1 MORE COIN  
IN TOTAL RAMAPO HAD 3 COINS MORE DATED 1901 THAN  
CHRISTIES

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1902	RAMAPO HAS 1 LESS COIN
1902-0	RAMAPO HAS 4 MORE COINS
1902-S	RAMAPO HAS 1 LESS COIN

IN TOTAL RAMAPO HAD 2 COINS MORE DATED 1902 THAN CHRISTIES

1903	RAMAPO HAS 12 MORE COINS
1903-0	RAMAPO HAS 1 LESS COIN
1903-S	RAMAPO HAS 2 LESS COINS

IN TOTAL RAMAPO HAS 9 MORE COINS DATED 1903 THAN CHRISTIES

1904	RAMAPO HAS 9 LESS COINS
1904-0	RAMAPO HAS SAME NUMBER

IN TOTAL RAMAPO HAS 9 LESS COINS DATED 1904 THAN CHRISTIES

**THERE WERE NO SILVER DOLLARS MINTED BETWEEN THE YEARS OF 1905 AND 1920 INCLUSIVE.**

1921	RAMAPO HAS 27 MORE COINS
1921-D	RAMAPO HAS 55 LESS COINS
1921-S	RAMAPO HAS 8 MORE COINS

IN TOTAL RAMAPO HAD 20 MORE COINS DATED 1921 THAN CHRISTIES

### **PEACE DOLLARS**

1921	RAMAPO HAS 4 MORE COINS
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IN TOTAL RAMAPO HAD 4 MORE PEACE DOLLARS DATED 1921 THAN CHRISTIES

1922	RAMAPO HAS 115 LESS COINS
1922-D	RAMAPO HAS 8 LESS COINS

IN TOTAL RAMAPO HAS 123 LESS COINS DATED 1922 THAN CHRISTIES (ONE LOT OF 121 COINS MAY BE LISTED TWICE)

1923	RAMAPO HAS 21 LESS COINS
1923-D	RAMAPO HAS 5 LESS COINS
1923-S	RAMAPO HAS 3 LESS COINS

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IN TOTAL RAMAPO HAS 29 LESS COINS DATED 1923 THAN  
CHRISTIES

1924                                      RAMAPO HAS 3 MORE COINS  
1924-S                                    RAMAPO HAS 6 MORE COINS  
IN TOTAL RAMAPO HAS 9 MORE COINS DATED 1924 THAN  
CHRISTIES

1925                                      RAMAPO HAS 12 MORE COINS  
1925-S                                    RAMAPO HAS 1 LESS COIN  
IN TOTAL RAMAPO HAD 11 MORE COIN DATED 1925 THAN  
CHRISTIES

1926                                      RAMAPO HAS 12 LESS COINS  
1926-D                                    RAMAPO HAS 12 MORE COINS  
IN TOTAL THE AMOUNT OF COINS DATED 1926 IS THE SAME FOR  
RAMAPO AND CHRISTIES

THERE ARE NO DIFFERENCES IN COINS DATED 1927

1928                                      RAMAPO HAS 1 MORE COIN  
1928-S                                    RAMAPO HAS 38 MORE COINS  
IN TOTAL RAMAPO HAD 39 MORE COINS DATED 1928 THAN  
CHRISTIES

THERE WERE NO SILVER DOLLARS MINTED BETWEEN 1929 AND  
1933 INCLUSIVE

1934                                      RAMAPO HAS 4 LESS COINS  
1934-D                                    RAMAPO HAS 5 LESS COINS  
1934-S                                    RAMAPO HAS 1 LESS COIN  
IN TOTAL RAMAPO HAD 10 LESS COINS DATED 1934 THAN  
CHRISTIES

1935                                      RAMAPO HAS 10 LESS COINS  
1935-S                                    RAMAPO HAS 10 MORE COINS  
IN TOTAL RAMAPO AND CHRISTIES HAD THE SAME AMOUT OF  
COINS DATED 1935



In conclusion, even if the professional appraisers for Christies misread each and every one of the mintmarks on the coins, there are still 462 silver dollar differences by year between the certified inventory of Ramapo and the Christies inventory.

The Affidavit of Theresa Ryan Tosches, FDIC dated February 13, 1996 indicates in paragraph 4. That "In totaling up the number of silver dollars listed in the RAMAPO appraisal against the total number of silver dollars listed in Spink America manuscripts, there is a 14 coin discrepancy. It appears at this time that Spink America is showing 14 additional coins in its inventory." (See Exhibit A, Affidavit of Ms. Tosches.)

Her affidavit does not explain why there are differences between the years and mintmarks in each inventory, but instead in paragraph 3. States, "In comparing the RAMAPO COIN EXCHANGE appraisal against the manuscripts of Spink America, the RAMAPO appraisal listed each coin by value and condition. Spink America's manuscripts grouped coins of the same date together, but not necessarily of the same condition, in order to come up with the best coins to comprise a lot for auction. In other words the coins were mixed up, in order to be more attractive for sale."

Assuming that all the information contained in paragraph 3. of Ms. Tosches Affidavit is correct, once a count is taken of each coin by year and mint mark, irrespective of the way that Spink America grouped them together by mixed condition, the fact remains that the counts of the number of coins in each year and mint mark are different in approximately 83 of the 123 different year and mint mark combinations possible from this inventory.

The coins inventoried by Ramapo Coin Exchange were grouped together by the same year and mintmark regardless of condition prior to comparing these totals with the totals from the Christies inventory.

#### **QUALITY DIFFERENCES:**

Appellant is presenting this comparison of these 8600 plus coins by the quality, condition, or state of preservation, assigned to each coin by Ramapo Coin Exchange and compared with the condition assigned to each coin by Christies, there are significant quality difference. The importance to this instant case of quality differences to the estate of Cumberland Investment Corporation, is that the higher the MS (Mint State) the higher the

value of the coin. For instance, it would not be uncommon for a coin in MS 63 (Christies calls MS 63-- choice uncirculated) to be worth one and one half to three times the value of an MS 60 (Christies calls MS 60-- uncirculated). It is a well established fact that professional appraisers may differ when it comes to grading the quality of a silver dollar. However it was deduced at Appellant's trial after much testimony, that professional appraisers should be within one or two grades of each other. The grading differences in this case are three grades or more, so the Appellant's comparison should be accurate. Listed below are some of the differences:

<b>YEAR AND MINT MARK</b>	<b>RAMAPO MS 63 OR BETTER</b>	<b>CHRISTIES CHOICE M.S.</b>
1881	82	0
1881-0	260	41
1881-S	18	0
1882-0	291	94
1883	7	0
1884-0	0	21
1886	6	70
1887-0	26	0
1889-0	35	0
1890	82	0
1890-0	172	11
1891	1	0 Uncirculated
1897	4	0
1898	40	0
1898-0	3	0
1899	41	0
1900-0	1	0
1900-0/CC	20	0
1902-0	13	0
1902-S	15	2
1903	8	0
1904	8	2
1922-D	3	0
1922-S	4	0
1923-D	3	0
1923-S	4	0
1924	0	60
1924-S	1	0 Uncirculated

1925	12	0
1926	18	0
1927-S	14	0
1934	2	0
1935	8	0

There are over 1,000 coins listed above that are graded MS 63 or better by Ramapo that Christies does not. Ramapo grades one hundred and thirteen (113) of these coins even higher as MS 64. It is true that there are some issues like 1884-0, 1886 and 1924 that Christies grades as choice, (MS 63) that Ramapo does not, thus establishing even more inconsistencies between the two appraisals. Issues such as 1928, where Ramapo grades 2 coins as uncirculated where Christies grades none as uncirculated, should not occur with professional appraisers unless something has happened to the coins such as mishandling or the coins being different coins.

In total value, the value of 1,000 silver dollars in MS 63 or better may be worth tens of thousand of dollars more than the same dated silver dollars in MS 60 grade. Upon information and belief, such is the case here.

It is extremely difficult to determine exactly how many coins are graded in choice by Christies due to the way the coins are grouped together in lots that range from circulated to choice uncirculated in the same lot. For example, Christie's lot #28 groups 1884-0 (20), 1900 (18) mint state to choice mint state with no breakdown of the quantity of each in mint state or choice mint state. Consequently, the only number of coins for 1884-0, 1886 and 1924 are those that are specifically graded as choice uncirculated. However, all other issues listed in the breakdown listing above do not have any ambiguity. There are no lots contained in the proposed Christie's sale of the other 30 issues listed above that contain any reference to any of the lots containing choice or choice uncirculated coins that were not identifiable. The 1884-0, 1886 and 1924 issues are a conspicuous aberration to the Ramapo grading.

In conclusion many of the coins in the Christies June 3, 1996 sale were not the same coins that were inventoried and graded by Ramapo and some of the coins having the same date and mint mark, with a lower quality, are either not the same coins that were in the Ramapo inventory, or these coins have been significantly mishandled or both. (1.) The objective total number of differences of the years and mint marks is overwhelming proof

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for a reasonable man to conclude that the coins offered by Christies for sale are not the same coins certified by Ramapo. In addition the subjective differences in the quality of the coins inventoried and appraised by Ramapo (2.) versus the Christies sale, when examined by a knowledgeable and prudent numismatist, is also overwhelming evidence that the silver dollars have been mishandled or switched.

- (1.) NOTE: Prior to Christies obtaining these 8,600 or so silver dollars for auction, the state of preservation or grading of them had decreased according to the Moffatt Affidavit listed below. However, once Christies obtained the silver dollars, the grading of them decreased still further as evidenced by the 1000 or more silver dollars that Ramapo graded as MS 63 or better that Christies graded as a lower grade. The significance of this grade difference can be translated into hundreds of thousands of dollars taking into consideration the information from the Moffatt Affidavit that over 80 percent of the coins should have been MS 63 or better according to the random sample taken in 1990.
- (2.) In May 1990 the court appointed examiner had a random sample of 202 silver dollars from the in-house inventory taken. This random sample was taken from the same grouping of 8600 silver dollars that was allegedly placed in the June 3, 1996 auction. On February 28, 1994, Mr. Moffatt, a professional appraiser that has testified for both the Government in other cases as well as the Appellant at his criminal trial stated the following in his affidavit:

“7. On February 25, 1994, I reviewed an appraisal of the “in-house” random sample of 202 silver dollars that were graded by an independent numismatist in 1990. In this sample, he graded 164 of the 202 silver dollars as Mint State 63 or better. This is 81% of the total.”

“9. It is my belief that if the silver dollars in my appraisal of February 18, 1994, excluding the coins in C945, are the same coins that were sampled in 1990 and referred to in #7 above, then something has happened to these silver dollars in the interim.”

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NOTE:

According to the Moffatt Affidavit in 1990, almost 7,000 of the 8,600 should have graded MS 63 or better. By the time the silver dollars were auctioned in 1996, only a small fraction of them were MS 63.

Subsequent to the 202 silver dollars being appraised by a second independent appraiser hired by the examiner in May 1990, coins started to disappear even from this 202 coin lot and some of the years and mint marks changed also.