

A HERITAGE DAILY SPECIAL INVESTIGATION

CAMERON APPOINTED PEER, MOD AND ODYSSEY COLLUDED OVER BALCHEN'S HMS VICTORY

By Andy Brockman

With the help of Culture Secretary Jeremy Hunt, Defence Secretary Philip Hammond and their officials, American treasure hunting salvage company, Odyssey Marine Exploration Inc. is poised to make commercial profits from Admiral Sir John Balchen's HMS Victory, the memorial and grave to over a thousand Royal Navy sailors. This special Heritage Daily investigation shows how a catalogue of incompetence, misrepresentation, collusion and back channel deals with Lord Lingfield, a leading Conservative Party supporter, mean our historic shipwrecks are not safe in the hands of MOD Navy Command and the DCMS.

On 4 October 1744 over a thousand Royal Navy personnel aboard HMS Victory, the largest first rate ship of the line in the world and Flagship of Admiral of the White Sir John Balchen, were fighting for their lives in a vicious storm in the English Channel, west of the Channel Islands. At some point, out of sight of land and the other ships in Admiral Balchen's Fleet, they lost their fight and their vessel became the tomb of those who could not escape the sinking ship and the memorial to those who were washed away into the darkness.

The fate of the vessel and her entire crew became one of the mysteries of the sea. A mystery spiced by the rumour published in one contemporary newspaper, the "Amsterdamsche Courant" of 18/19 November 1744, that "People have it that on board the Victory was a sum of £400,000 that it had brought from Lisbon for our merchants."

It was the story, built on that rumour, which sent Odyssey Marine Exploration Inc. looking for HMS Victory and in May 2008 Odyssey found her.

Odyssey Marine Exploration Inc. is a NASDAQ quoted deep sea treasure hunting company and mining company, based in Tampa, Florida. Using a combination of sonar and ROV's [Remotely Operated Vehicles] Odyssey maps and identifies wrecks on the seabed in an attempt to locate the "High Value Targets" identified by its in-house historians. In a TV interview on Fox Business in March 2012 Odyssey Chief Operating Officer [COO] and President, Mark Gordon, stated that for a shipwreck to be of interest and qualify as a "High Value Target" it had to promise a return of at least \$50 million. Thus it was in the expectation of being able to market the prospect of such a return to prospective investors,

rather than any intrinsic historic value, that Odyssey went looking for the wreck of HMS Victory.

Odyssey was searching for British vessels in particular because, while most national governments and heritage authorities refuse to work with the company because of the for-profit ethos Odyssey brings to its version of maritime archaeology, Odyssey has nonetheless managed to build up a particularly close relationship with the UK Ministry of Defence. First with the Disposal Services Authority over the controversial and currently indefinitely postponed, salvage of the alleged wreck of HMS Sussex off southern Spain and latterly, after the DSA was stripped of its role over historic wrecks after the Sussex debacle, with Navy Command based in Portsmouth.

The relationship between the UK Government and Odyssey was further strengthened by commercial salvage contracts won by Odyssey from the UK Department for Transport, for the cargoes of silver bullion aboard the SS Gairsoppa and SS Mantola, both victims of U-Boats, in the western North Atlantic, the Mantola in 1917 and the Gairsoppa in 1941.

When Odyssey located the wreck of the Victory in the Spring of 2008 it attempted to implement its standard business plan and secure commercial salvage rights as "salvor in possession" of the wreck. This was legal nonsense as far as HMS Victory was concerned because she was a naval vessel on military duty when she sank and thus in international law she was protected from salvage by "sovereign immunity." Consequently the only rights Odyssey could claim were those granted by the Government of the UK. Nonetheless, according to US court records obtained by Heritage Daily, a piece of glass was removed from the wreck and surrendered to the US Marshal to be placed under Admiralty Arrest in the US District Court in Tampa on 8 June 2008. Technically this was an illegal interference with a sovereign immune British warship.

This legal move also carries the implication that, had Odyssey not reached a subsequent agreement with the UK Government, the company might have gone ahead and lifted material anyway and relied on the Courts to sort the issue out. This was the tactic adopted by Odyssey over the illegal salvage of 17 tons of silver coins from the sovereign immune Spanish Frigate, *Nuestra Senora de las Mercedes*, sunk in international waters, off southern Portugal in 1804.

Be that as it may, having gone looking for the Victory and believing they had found her, Odyssey immediately sought permission from the Ministry of Defence to begin an excavation. What should have followed was a detailed survey and monitoring of the wreck site over a period of time while the UK Government, advised by English Heritage, independently assessed how to deal with the sensitive and historically important find. What actually followed is revealed in the Tampa Court papers.

In August 2008 Odyssey gained permission from the MOD to lift two cannon for "identification purposes." This was completely unnecessary as the identification of the site

was never in serious doubt. Odyssey's high resolution video showed bronze guns with 18th century British Crown markings, including bronze 42 pounders which were not carried aboard ships other than First Rate Ships of the Line and Victory was the only vessel of that type missing in the English Channel.

However, from Odyssey's point of view, any delay in its ability to excavate the vessel, which it claimed might be carrying a substantial cargo of gold and silver bullion and prize money, would impact on the confidence of its investors.

For this activity, which was undertaken without the MOD taking any independent archaeological advice from either the Department for Culture, Media and Sport which leads on heritage matters, or the government's statutory advisor, English Heritage, the Tampa Court papers reveal Odyssey reached an agreement for a standard commercial salvage reward of 80% of the value of the items despite the fact that the cannon were already the property of the UK Government!

The court papers also reveal that in September 2009 there was already a timetable in place to reach a decision about the future management of the Victory wreck site.

"It has also been agreed that Odyssey will be actively involved in the on-going process of planning and consultations to determine the ultimate disposition, management and protection of the site which is scheduled to be concluded during the second quarter of 2010."

This schedule can only have come from negotiations with the Ministry of Defence. Odyssey added...

"In the meantime, Odyssey will continue to provide archaeological, conservation and technical services, as needed, to Her Majesty's Government."

...in other words Odyssey was presenting itself in the US Courts, not as a commercial salvage company, but as an "actively involved" official archaeological service provider to the UK Government.

This is early evidence of Odyssey developing multiple narratives about the Victory where the company appears to be what it feels its audience wants it to be. As the story progressed Odyssey has attempted to present HMS Victory as a site about to deliver a 50-80% after costs return for the benefit of its investors, as a human interest led story about maritime mystery and treasure for the wider media and as a considered historical and archaeological research project for the benefit of the UK authorities and heritage community.

The contradictions inherent in these multiple viewpoints could only be kept apart if Odyssey's extensive public relations operation was able to keep the narrative moving forward and retain control of the narrative strands. When the project stalled in the early

months of 2012 and detailed information about the company and HMS Victory contract began to be widely published the result was an administrative and public relations train wreck.

The comment also offered an early glimpse of what would be another important strand of Odyssey's presentational strategy throughout the HMS Victory controversy. That is to seek to present itself as working, not on behalf of its investors, but on behalf of the British Government and establishment.

Faced with this, Navy Command, which was responsible for administering the ship as a sovereign immune naval vessel, should have had two overriding responsibilities. First for the ship as a historically important Royal Navy warship with sovereign immunity under International Law preventing any unauthorised interference with her remains and second and morally perhaps even more powerfully, for the welfare of the remains of Victory's crew.

This is because, even though a sunken warship is not legally a "war grave" under International Law and in spite of the fact they died over two hundred and sixty years ago, the crew of Victory should have been treated in exactly the same way as any serving member of the British Armed Forces who dies on active service today. That is with privacy, respect and the protection of the government, facilitated by organisations such as the Ministry of Defence Joint Casualty and Compassionate Centre [JCCC] and the Commonwealth War Graves Commission [CWGC].

Heritage Daily must make it clear that there is no evidence that Odyssey has behaved improperly towards any human remains found on the HMS Victory wreck site.

However, the management arrangements which the Ministry of Defence, Deputy Command Secretary (DCS) of Navy Command, the Department for Culture, Media and Sport, Senior Conservative Peer Lord Lingfield and Mr Greg Stemm, the Chief Executive Officer (CEO) of Odyssey Marine International Inc now combined to put in place for HMS Victory and the way those arrangements were negotiated, goes to the heart of what Heritage Daily believes may turn into one of the great heritage scandals of recent times.

Everything which follows is supported by Documents and E-mails released under the UK Freedom of Information Act, by other documents and e-mails obtained by Heritage Daily and by material already in the public domain including, US Court Papers, reports and press releases by Odyssey Marine Exploration Inc. and briefings by the Joint Nautical Archaeology Policy Committee; an independent expert group specialising in maritime archaeology policy and the development of internationally recognised best practice for underwater heritage.

These sources can be used to tell a shabby story of incompetence in failing to take even the most basic steps to conduct due diligence; of the failure to follow the most basic elements of UK Government policy over historic wrecks; of the failure to take independent advice and worst of all, of privileged back channel communications involving a Minister, a Peer of the

Realm and improper collusion by Government Officials; all of which have served the interests of a foreign owned commercial salvage company, Odyssey Marine Exploration Inc.

Heritage Daily picks up the story on 8 March 2010.

The e-mail also shows that Odyssey submitted comments “for your review only at this point” relating to the Wessex Archaeology technical report, commissioned by English Heritage on behalf of the DCMS and which accompanied the consultation brief.

This was important because the Wessex Report is the only independent report on the Victory site and it is critical of two key planks in Odyssey’s case that HMS Victory should be excavated as soon as possible. First, Odyssey’s contention based on its own surveys, that the wreck site was under immediate threat from erosion, trawlers and other commercial salvage companies was questioned. Secondly, and most importantly for Odyssey’s presentation of the wreck to its potential investors, Odyssey’s contention, based on the comment in the “Amsterdamsche Courent”, that the Victory was carrying a substantial amount of gold and silver specie when she sank also came under critical scrutiny.

Given the central role of the suggestion that Victory was a treasure ship in Odyssey’s public relations campaign and the importance of this issue to Odyssey’s share price, the authors of the Wessex Archaeology report knew they had to get the issue right. As a result they approached the world’s acknowledged expert on the 18th century Royal Navy, Dr N A M Roger of Exeter University, a man completely independent of both Wessex and Odyssey, for advice. The resulting opinion was that, while not impossible it was “highly unlikely” that the Victory was carrying any bullion or prize money; a conclusion which duly appeared in the report.

Heritage Daily believes that these two conclusions led to un-attributable comments being made by Odyssey in an attempt to discredit the Wessex report in the eyes of the MOD officials who would make the final decisions about Victory because, at that time, she remained a sovereign naval vessel. There is a clear motive behind this suggestion. Information is power and in public relations terms, Odyssey did not want an independent “narrative” of the site and the vessel’s history to take hold among its investors.

Heritage Daily also believes it is apparent from the “for your review only” caution, that Odyssey wished to keep its involvement as an un-official advisor/lobbyist to the MOD hidden from other parties involved such as the DCMS and English Heritage.

This desire for secrecy is hardly surprising as Odyssey and the UK Government had been lambasted by the international archaeological community when Odyssey was awarded a commercial salvage contract for the alleged HMS Sussex site in October 2002.

However, circumstances were about to allow Odyssey to step back from direct negotiation with the Ministry of Defence and to put in place an additional line of communication to the UK Government via what in security circles is called a “cut-out device”. That is a means of hiding a direct relationship between two parties by using a trusted, but apparently unconnected, go-between.

The event which opened up this new line of communication was the May 2010 British General Election.

May 2010– February 2012: Odyssey joins the “Big Society”

The HMS Victory consultation had been set up by the Labour Government, but by the time it was complete, Labour had lost the May 2010 General Election and David Cameron had become Prime Minister at the head of a coalition with the Liberal Democrats. Underlying the new Government’s financial approach, under Chancellor of the Exchequer George Osborne, was an aggressive cost cutting and deregulation agenda aimed at all aspects of society.

Under Cameron’s “Big Society,” roles which would previously have been undertaken by government bodies, including in the heritage sector, were to be transferred to the private, charitable and voluntary sector in order to reduce the number of people employed by the Government and organisations in receipt of direct Government funding.

Ministerial responsibility for HMS Victory now lay with Jeremy Hunt, the new Secretary of State at the Department for Culture, Media and Sport, and Dr Liam Fox, Secretary of State for Defence.

However, Odyssey also found it had a leading supporter within the British Establishment who was also a close associate of leading members of the new Government including Culture Minister Hunt and the new Prime Minister himself, David Cameron. That man was Sir Robert Balchin, now Lord Lingfield.

When Odyssey announced the finding of HMS Victory at a lavish press conference, hosted by the Discovery Channel in a snow bound Canary Wharf on 2 February 2009, the accompanying press release quoted below, overtly linked the find with British education expert, Sir Robert Balchin, chair of the Balchin Family Society which makes great play of the Admiral’s presence in their extended family tree.

“Sir Robert Balchin, descendant of Admiral Sir John Balchin, stated, “This is the most astonishing news; for generations my family has wondered about the fate of Sir John and the Victory. Now that the wreck has been found, I and my family hope that as many of the artifacts on it as possible will be raised to the surface; our fear is that erosion, or trawler fishing will destroy what is there within a very few years.”

Sir Robert was co-founder of the “Balchin Family Society” in 1991 and while it is not known whether Odyssey first approached Sir Robert or Sir Robert approached Odyssey, by early 2009 he and Odyssey were closely enough connected for Odyssey to make him, and the stated family connection, an integral part of the public relations face of the discovery.

Odyssey even commissioned a set of portrait photographs of Sir Robert standing in front of a portrait of Sir John Balchen from social photographer Emma Duggan and the family angle was also pushed by Odyssey with the favoured media partner for the day of the press conference, US based business and investment news channel, Fox Business.

This media effort, which was clearly principally aimed at investors in the USA, included an interview on the bridge of Odyssey’s flagship search vessel the Odyssey Explorer during

which Sir Robert was described by reporter Brian Sullivan as a “tenthfold descendent,” of Admiral Balchen; while Sir Robert Balchin himself referred to Sir John Balchen as his forbear.

In early 2009 Sir Robert Balchin could still be presented convincingly as a member of a family network claiming kinship with the Admiral who went down with HMS Victory and as such he offered a useful public relations face and way into the British establishment for Odyssey. However, Sir Robert Balchin, Lord Lingfield is also a long-time, senior supporter of the British Conservative Party and after the formation of the Coalition Government in May 2010, his usefulness to Odyssey took on a whole new political dimension.

A former County Councillor for Surrey, and Chair of the Conservative Party South East Region, Sir Robert Balchin, Lord Lingfield, was an advisor on education to the Major Government in the 1990’s and to the Conservative Party in opposition between 1997 and 2010. More to the point as regards HMS Victory and those who would be taking decisions, he is a political associate of both David Cameron and Jeremy Hunt, having written reports for both men while in Opposition and later in Government, in his profession as an expert on education. Indeed, it is argued, he is a leading theorist behind Michael Gove’s flagship and highly controversial, policy of Free Schools. Most recently Lord Lingfield authored a report into professional standards in higher education teaching, published in March 2012 which essentially recommended the deregulation and dismantling of the professional development system set up under Labour.

It is also important to note that Sir Robert Balchin’s political power base is in Surrey. This is the same county which contains the constituencies of Jeremy Hunt [South West Surrey] and the current Defence Secretary Philip Hammond [Runnymede and Weybridge]. Such is his seniority and usefulness to the Conservative Party that Sir Robert was ennobled by David Cameron as a Conservative working Peer on 17 December 2010 taking the title Lord Lingfield.

It is not yet known precisely when the plan to set up a charity to manage the site of HMS Victory was hatched or who first suggested it. The answer to a Freedom of Information request to the Ministry of Defence suggests that Lord Lingfield brought the suggestion to the MOD. However, for Odyssey the prospect of an apparently independent charity, chaired by a leading supporter of the Government and associate of its Leadership and who could also be stated to have a family connection with Odyssey’s high value target shipwreck itself could not have been more helpful.

Thanks to a confirmation obtained by “Private Eye” magazine it is now known that Jeremy Hunt met Sir Robert Balchin, Lord Lingfield at least once “on the constituency net” in the Summer of 2010 almost certainly before the consultation closed.

It is not known what Hunt and Balchin discussed at the meeting and so far the DCMS has resisted all attempts to obtain information about this and other potential meetings and contacts between Balchin and DCMS Ministers and Officials during this period under the

Freedom of Information Act. However, what is known beyond doubt is that Balchin incorporated the “Sir John Balchin Maritime Heritage Foundation,” at Companies House” on 26 October 2010 after the consultation had closed, but before the Government response was published. It is most unlikely he would have taken the trouble to take this step without at the very least a nod and a wink from the top of the DCMS that the Foundation would be needed.

Curiously, for an organisation about to embark the high profile and technically highly specialised management of a historic shipwreck, the new Foundation had just three directors. Sir Robert Balchin himself as Chairman, eminent plastic surgeon Professor Alan Roberts and Mr Nigel Anthony Chimmo Branson a JP, member of the Corporation of the City of London and Sheriff of London in the year 2000. None of the directors had any background or experience in maritime archaeology or of large scale heritage projects of any kind. Neither did the new Foundation appear to have any financial resources. To all intents and purposes it was a “shell” operation.

Nonetheless, Sir Robert Balchin went on the record in an e-mail of 4 February 2012 reminding MOD officials that his submission which led to the creation of the Maritime Heritage Foundation had direct ministerial approval...

However, of course, my submission to the Consultation, accepted by the Secretary of State as the preferred way forward, outlined my plans for the proper archaeological excavation of the site and, of course, this is what, step by step in consultation with the Group, the Foundation hopes to do. It

All these events are suspiciously close to the “second quarter of 2010” deadline for a decision on the future of HMS Victory recorded by Odyssey in the papers filed in the Florida Court in 2009 and Heritage Daily believes that while the Government response to the “consultation” would name no names, it is highly likely that the decision to gift HMS Victory to a private foundation headed by Sir Robert Balchin was taken in the Summer or Autumn of 2010 and as Sir Robert’s 4 February 2012 e-mail suggests, it will have been approved by Ministers.

It is also clear from the wording and arguments contained within Sir Robert Balchin’s response to the consultation submitted in June 2010, particularly those sections relating to alleged damage to the site that, far from his having “requested” Odyssey to send him technical information, Odyssey was actually intimately involved in framing his proposal. Sir Robert may well have asked to “tour the Odyssey Explorer”, but his submission fails to mention he had enjoyed privileged access to the company staff and its ship from as early as the February 2009 press conference, well before the consultation was announced.

Significantly, while incorrectly mentioning “Wessex Marine” he does not seem to have made any attempt to seek additional access and comments from that source, although their work was commissioned on behalf of the DCMS.

Having effectively used his submission to promote the Odyssey house line on the narrative for HMS Victory, Sir Robert then proceeded enter a sales pitch on behalf of Odyssey Marine Exploration Inc.

4. Exploration Methodology:

I requested Odyssey Marine Exploration to send me all their technical documents which I have read carefully, and I have examined those from Wessex Marine also. I asked to tour the *Odyssey Explorer*, the ship which found the wreck. I spoke at length to the extremely qualified archaeologists concerned and am convinced that the far location of the site requires it to be examined using remote technology, an ROV. I support entirely the methodology which Odyssey would intend to use to discover the wreck's secrets; I do not believe that any other body has the experience or indeed the tools to enable a satisfactory outcome.

5. Economic Realities in 2010:

I take the view that the site must be excavated and conserved before it is damaged or disappears, and the artefacts (including the two astonishing cannon already on land) exhibited in a museum. However I realise that this process is likely to be very expensive and that public funds are not likely to be made available at this hugely difficult time for the British economy and bearing in mind the vast deficits and long-lasting debt left by the recently departing government.

As if these statements promoting Odyssey's case were not enough, Sir Robert then concluded by proceeding to offer to set up a charitable trust and in so doing set up several hostages to fortune, particularly the comment about the need for a committee "capable of making objective and practical decisions."

7. Balchin's Victory Trust:

I ought to make clear that neither I nor any member of my family known to me have any financial interest in any item found on the ship's site, nor shares in any company, such as Odyssey, which might attempt its retrieval.

I would wish to found a charitable trust to bring together a partnership to collaborate in the reclamation and the exhibition of the wonderful artefacts from Balchin's *Victory*.

The trust would, in my judgement, require a committee of scientists, museum personnel, heritage experts and government representatives capable of making objective and practical decisions. I have already consulted several potential benefactors who would in principle be keen to give support.

He then concluded his response by ticking both the Cameron Government's cost saving and deregulatory model one more time. In so doing he demonstrated again quite how close his relationship with Odyssey was when he proactively asked officials to negotiate a "suitable arrangement" with Odyssey to work the HMS Victory site. An request which effectively prejudged and negated any tender process which best practice would suggest would be necessary for any major archaeological work.

I absolutely believe, therefore, that a commercial model featuring a public/private partnership will give currently the best opportunity to save this ship without cost to the Treasury. It is my hope that officials will

discuss a suitable arrangement with Odyssey Marine Exploration and other firms with the same expertise and equipment, should there be any. I suspect that, given the fact that Odyssey has done a considerable amount of the work already, they will be the best option.

As a case of giving the answer you know the questioner wants to hear, Sir Robert Balchin's approach could not have been more blatant had it been agreed with Ministers and Officials in advance...

In Sir Robert Balchin's solution both parties, were to get what they needed; the Government got a cheap, "Big Society" solution and Odyssey got a chance to work the site for profit, hidden behind a not for profit charity. Meanwhile Sir Robert Balchin was the in the middle acting as go-between and fixer, but with the promise of the public prestige of heading up a high profile charitable project apparently tied to the family name.

It can therefore come as no surprise that when the report of the consultation was finally published by Jeremy Hunt's DCMS in the late July 2011, after an inexplicable delay of a year, it duly called for the wreck of HMS Victory to be placed in the care of a charitable foundation as the solution which was most cost effective and most in line with government policy towards the "Big Society."

Of course, by an amazing coincidence just such a foundation had been set up nine months earlier by Sir Robert Balchin. By another equally remarkable co-incidence Odyssey had said in its submission to the DCMS/MOD Consultation

"Odyssey is prepared to work closely with any non-profit organisation that might be formed for the purpose of promoting the preservation of Balchin's Victory.

Thus, as the consultation came to an end with the publication of the government's formal response, the DCS at Navy Command immediately began negotiations with the MHF on behalf of both the MOD and the DCMS, over the transfer of the ship to the Foundation.

Meanwhile, Odyssey sat in the background, no longer needing to negotiate directly with the government as it had been forced to over the alleged HMS Sussex site and happy to work with Sir Robert Balchin, as of course the company already had been since at least January 2009.

With the box marked "consultation" ticked off and negotiations under way it seemed to be only a matter of time before Odyssey's associate Lord Lingfield and his two trustees at the Maritime Heritage Foundation took control of the Victory site. However, we now also know that at the same time as the Maritime Heritage Foundation was created, the association of Sir Robert Balchin, Lord Lingfield, with Admiral Sir John Balchin of HMS Victory, which was central to Odyssey's public relations campaign surrounding the discovery, was causing anger among the Admiral's genuine direct descendants.

“its not sir robert balchin's place or your place, to decide what happens to the mortal remains of my ancestor,”

In October 2010 the following e-mail was sent to Odyssey's Tampa Office

Ticket Details

Ticket # 3126-9015101332	Department General Questions or Comments	Subject hms victory
direct descendant Priority High	Status Resolved	
October 15, 2010, 02:57 PM	hms victory direct descendant	

Having been in touch with you and corresponded with you in the past, i am perturbed by this article on your site

http://www.shipwreck.net/g2/gallery2/v/ShipwreckProjects/hms_victory/Historical/Sir_Robert_Balchin_1.jpg.html

i am upset that you and now the press, quote that sir robert balchen is a direct descendant of sir john balchen. he is not, as sir john had one surviving son who died without issue

my family and i are the only direct descendants of admiral sir john balchen of the hms victory, via his daughter marrying admiral temple west

not only am appalled that i was not invited to the press conference, but that i have not been fully informed

what really is beyond the pale, is that its not sir robert balchin's place or your place, to decide what happens to the mortal remains of my ancestor, it is that of his real descendants

if i dont hear from you and the above is not rectified shortly, i'm afraid that i will no choice, but to contact all the appropriate authorities, to ensure that my ancestors remains are not further disturbed

you must understand. how would you like it, if i started disturbing your family grave, particularly when you do not feel that you have been accorded the appropriate respect and courtesy, by the person whose disturbing your ancestors grave

The e-mail was from the Temple West family who, as the e-mail stated, are direct descendants of Admiral Sir John Balchen via his daughter and eventual sole heir, Frances Balchen. The complaint resulted in an extensive series of e-mails during which Odyssey CEO Greg Stemm attempted to resolve the issues raised by the family.

During the exchange, Stemm stated in an e-mail sent on 20 January 2011...

“Sir Robert has always been insistent with us that he was not a direct descendant, just that he was part of the same family. While that has possibly been changed to "descendant" in some instances by the media, I trust that you are as cynical about the media's ability to get everything right as I am.”

To date Heritage Daily has found no evidence Sir Robert Balchin, by now Lord Lingfield, made any claims about his descent from Sir John Balchen to Odyssey. However, he did specifically claim Sir John Balchen as his “forebear” in his response to the MOD/DCMS Consultation about HMS Victory dated June 2010.

This would be a fitting and final legacy for my forebear Admiral Sir John Balchin who served this country as an eminent and brave officer of the Royal Navy for sixty years.

A handwritten signature in black ink that reads "Robert Balchin". The signature is written in a cursive style with a long, sweeping underline.

Sir Robert Balchin DL MEd DLitt

In the strict dictionary definition of forbear in the Shorter Oxford English Dictionary: “An ancestor progenitor [usually more remote than a grandfather],” Sir Robert Balchin could not legitimately claim Sir John as such a forbear or ancestor.

However, Sir Robert’s use of the word is consistent with Odyssey’s presentation of his relationship to Admiral Balchen in the media and it is here we can demonstrate that Greg Stemm’s statement to the Temple West family that the suggestion he was such a descendant came from “the media” was just not true.

It was Odyssey who told “the media” that Sir Robert Balchin was a descendent of Sir John Balchen and played on the family connection it to frame their entire Public Relations message.

When is a “Balchin” not a “Balchen”– the great Odyssey spelling bee mystery

The earliest known unambiguous claim of Sir Robert Balchin’s descent from Admiral Sir John Balchen came from the Odyssey communications office in Tampa in the Press Release of 2 February 2009 announcing the finding of the ship.

“Sir Robert Balchin, descendant of Admiral Sir John Balchin, stated, “This is the most astonishing news; for generations my family has wondered about the fate of Sir John and the Victory.”

The claim was then put to and repeated by Sir Robert in interviews, not least with Brian Sullivan of Fox Business and was picked up by the media, including the BBC, as must have been intended by Odyssey.

What is also demonstrably beyond dispute is that Odyssey deliberately adopted the spelling of the family name used by Lord Lingfield, BALCHIN, rather than the historically correct BALCHEN which appears on the Admiral’s memorial in Westminster Abbey commissioned by his daughter Frances and that of Frances Balchen’s husband, Vice Admiral Temple West. The BALCHEN spelling is also used in a number of contemporary documents showing it was not just in use within the family, but also by outside authors.

This manipulation of the spelling is clearly apparent in Odyssey’s Paper 2 p37 and Paper 18 [p18 and p19] where in consecutive paragraphs Odyssey’s consultant Dr Sean Kingsley and staff archaeologist Neil Cunningham Dobson, quote documents of the period using the correct 18th century spelling and then refer to Admiral “Balchin” in the commentary.

As to the motive for manipulating the spelling there is no firm evidence. However, it must be noted that the adoption of the modern spelling serves to make Sir Robert Balchin’s connection with the Admiral and what Odyssey consistently termed “Balchin’s Victory” seem closer than it actually is.

Similarly, when Sir Robert Balchin, Lord Lingfield, is quoted as supporting Odyssey’s plans and points of view it gives the impression that Admiral Balchen’s family support the Odyssey/Maritime Heritage Foundation views and plans for a commercial salvage.

In addition, for an American audience in particular, the attachment of a member of the British Establishment, not least a Knight and now a Peer of the Realm would lend the HMS Victory Project a certain legitimacy and gloss, not normally present on a commercial salvage deal.

It seems likely that the image of Sir Robert Balchin as a Balchen descendent was both strategically useful in public relations terms and too powerful for Odyssey’s PR operation to resist.

However, thanks to the intervention of the Temple West family, the presentation of Lord Lingfield as a descendent of Admiral Balchen returned to haunt Odyssey.

Heritage Daily believes it is not a co-incidence that, shortly after the furore around the use of the Admiral's name and claims of descent by Odyssey broke, the name of the "Sir John Balchin Maritime Heritage Foundation" was changed to the "Maritime Heritage Foundation" on 25 March 2011. In its new guise the company became a registered charity No 1141244 on 7 April 2011.

However, the e-mail exchanges between Greg Stemm and the Temple West family also provides significant further evidence of the on-going collusion with the Ministry of Defence and specifically with FLEET DCS.

“We have been working well with the MOD so far” Greg Stemm

Through late 2010 and early 2011, in a series of private e-mails seen by Heritage Daily, the Temple West family expressed concern at the treatment of human remains on the HMS Victory site and suggested that they might take their concerns to political and media contacts.

In response to this suggestion on 19 January 2011 Greg Stemm advised the Temple West family that it was probably best that they...

...come up with a specific strategy before starting to contact government people. They tend to create more problems than they solve.

We have been working well with the MOD so far, and it would probably not be good for them to start getting calls from any other departments.

Heritage Daily believes that Greg Stemm warned against contacting other government departments because Odyssey were desperate not to have anyone other than its friendly insider, the DCS, involved in leading on the decisions about HMS Victory.

Odyssey knew that if the DCMS, the lead department on heritage, became more closely involved then so inevitably would the government's statutory adviser on heritage matters, English Heritage and that would raise the issue of compliance with stated UK Government policy on historic shipwrecks and Odyssey's *bête noir*, the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001.

Odyssey would also be bound to face questions about the precise nature of its relationship with the Maritime Heritage Foundation and above all, regarding the compliance of any proposed work with the Annex to the UNESCO Convention relating to best practice in the conduct of underwater heritage projects.

UNESCO = NO GO For Odyssey

Unlike, for example, Italy, Spain and Portugal, the UK Government has not signed the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage, but it has repeatedly stated it will adhere to the thirty six Rules for best practice laid down in the Annex to the Convention as its policy with regard to historic shipwrecks.

When it came to work on the site of HMS Victory, English Heritage as advisor to the UK Government, would be bound to insist that full compliance with the rules set out in the Annex was the only way to fulfil UK Government Policy and here the headaches for Odyssey would begin...

Rule 2 of the Annex states...

“ The commercial exploitation of underwater cultural heritage for trade or speculation or its irretrievable dispersal is fundamentally incompatible with the protection and proper management of underwater cultural heritage.”

Clearly Rule 2 is fundamentally incompatible with Odysseys commercial business model; a model which relies on material being disposed of on the speculative collectors' market at commercial rates of return.

Equally awkward for Odyssey and the MHF is Rule 17 which requires full funding for a project to be assured before work starts. The MHF had and still has no discernible financial resources of its own.

Overriding even those two rules is the core principle underpinning the Annex and stated in Rule 1; that excavation, Odyssey's first response, should actually be a last resort, coming at the end of a carefully researched, incremental process of impartial evaluation of what is best for the site.

However, Odyssey was only able to postpone the collision with the UNESCO Convention, not stave it off entirely, because English Heritage became involved with the management of HMS Victory anyway.

It did so as a member of the HMS Victory Advisory Group [AG] which the MOD put in place in November 2011, mindful of the public relations disaster of the HMS Sussex contract with Odyssey when archaeological oversight had to be shoehorned into the agreement post facto when the Government was faced with international opprobrium for signing over an archaeological site to a company of Treasure Hunters.

Enter the Advisory Group

The function of the HMS Victory Advisory Group [AG], is to advise the Maritime Heritage Foundation regarding archaeological best practice and compliance with the UNESCO Annex and in turn, to advise the Secretary of State for Defence if proposed work was in compliance with UNESCO and thus Government policy and could therefore be authorised under powers retained by the Ministry in the Deed of Transfer of HMS Victory.

However, since the creation of the Advisory Group the MOD has been forced to put in place a further layer of advice in the form of an Expert Panel of maritime archaeologists to support the Advisory Group. The Expert Panel came about because of the outcry from the mainstream archaeological community that the Victory project was heading for a collision of monumental proportions between the MHF's complete lack of independence, experience, knowledge and resources, Odyssey's financial imperative to monetise the ship as soon as possible and the stated Government's policy towards historic wrecks as set out in the UNESCO Annex.

With these arrangements in place DCS and the DCMS might have felt that they were almost home. However, a last minute crisis threatened to derail the moves towards gifting HMS Victory to the MHF in November 2011.

The way the crisis was solved demonstrates both Odyssey's "cut out device" in operation and quite how close the Lord Lingfield/DCS/Odyssey nexus had become.

“*****undertook to rein in *****”

During July 2011 a Dutch salvage ship had visited the Victory site and illegally lifted a cannon; illegally because at this time HMS Victory was still a “sovereign immune” British warship. However, when Odyssey found out about the illegal removal on 30 October 2011, the company took this as a theft from a site it owned. On 2 November 2011 the DCS e-mailed a colleague to report what happened next...

From: FLEET-DCS (XXXXXXXXXXXXXXXXXX)
Sent: 02 November 2011 12:11
To: FLEET-DCS 3RD SCTR B2 (XXXXXXXXXXXXXXXXXX)
Subject: RE: release-authorised: FW: VICTORY 1744

XXXXXX

XXXXXX has just phoned.

XXXXXX has heard about the impounding by Dutch customs of the cannon and is concerned that, if left exposed to the elements, it may be damaged. He is/was threatening legal action as “salvor in possession”. I have told XXXXXX that any such action would be thoroughly unhelpful but that we would make enquiries with our contacts about the material state/care of the cannon. XXXXX undertook to ‘rein in’ XXXXX

Separately, XXXXXX indicated that the next meeting of the Trustees of his Foundation is on 6th December. I outlined the process that we discussed (of agreeing with him a Press Release, etc) and said we would endeavour to have the process completed by 6th December, if possible.

XXXXXX

In the e-mail, released under the Freedom of Information Act, the names have been redacted as personal information, but the identities are clear. The mention of “the Trustees of his Foundation” shows the phone call was from Lord Lingfield and the person threatening legal action as “salvor in possession” can only be Greg Stemm of Odyssey. As we have seen from the very first “Admiralty Arrest” of material from the Victory in 2008, “salvor in possession” is Mr Stemm’s favourite legal concept.

Lord Lingfield’s information that Odyssey was threatening legal action must have led to something of a low level panic among the officials at the MOD and perhaps also at the DCMS.

With the smooth “gifting” of the HMS Victory site so close, any legal action by Odyssey as “salvor in possession” would be acutely embarrassing as the British Government which would be bound to oppose Odyssey’s claim. A commercial company cannot be “salvor in possession” of a sovereign military vessel unless rights and ownership have been somehow transferred, which to that point they had not been in the case of the Victory. This meant that if anyone had a right to seek to prosecute the Dutch salvor it was the MOD itself. Of course it would also be impossible to keep any legal action secret. The entire

relationship between the three parties would be wide open to scrutiny and argument in the Courts.

What is also quite remarkable about this reported exchange is that, even though it still had full responsibility for HMS Victory under International Law, the MOD chose to use Lord Lingfield as a go between to “rein in” Greg Stemm and Odyssey with the clear expectation that Lord Lingfield both could and would.

As it turned out, the MOD’s assurance that the issue would be pursued through “contacts,” was clearly enough for Odyssey and the legal challenge never took place.

Thus with the danger of a legal case in the Netherlands damped down and with archaeological checks and balances apparently in place, the wreck of HMS Victory was finally “gifted” to the Maritime Heritage Foundation by Deed of Transfer” in late January 2012.

Effectively the MOD “privatised” the ship and her contents and in a piece of legal ineptitude, removed at a stroke the only internationally recognised legal protection she ever had—“sovereign immunity”.

This procedural solution was also relying on Odyssey playing by the rules set out in London and Portsmouth. Evidence now suggests that may have been naïve and the company might instead have bought along its own rule book, backed up by its lawyers.

My Ship, My Rules!

In spite of the role of the Advisory Group to ensure best practice and compliance with the UNESCO Annex, so incompatible is Odyssey's business model with the UNESCO Annex that Odyssey is telling its US investors that the Maritime Heritage Foundation can overrule advice it receives from the Advisory Group if it insists on compliance with the Annex and forbids the sale of material from the site.

Proof of this came in a web post by Liz Shows of Odyssey's Tampa Office in reply to a question from an investor on the Yahoo Financial Discussion Board on 7 June 2012...

"With due respect to Lord Renfrew, please note that the UK is not a signatory to the UNESCO Convention for the Protection of Underwater Cultural Heritage (Nor are the vast majority of countries in the world, including the US, Japan, China, Russia, India, France or any other major maritime powers, because it is not considered a workable regime). While some heritage organizations and government agencies are promoting it as "best practice", it is not law in the UK. Thus you will note that the Deed of Transfer to the MHF is clear that the Advisory Group is to advise on the extent to which the actions are consistent with the archaeological principles of the Annex of the Convention, not that the MHF is required to follow the requirements of a Convention to which the UK has not become a signatory."

Unless Ms Shows has somehow "misspoke", it appears that, as far as Odyssey is concerned, the advice of the Advisory Group is just that, advice and what is supposed to be the guarantee for the protection of the UK Government's rights and stated policy, can be simply ignored.

Ms Shows also noted, in what was clearly another dig at English Heritage "While some heritage organizations and government agencies are promoting it [the UNESCO Annex] as "best practice", it is not law in the UK." Which in the strictest sense is true, but it is not giving the investors the full picture.

Compliance with the UNESCO Annex is stated Government Policy. That means if Ministers are to depart from it they have to state a case as to why and it would be a political risk for the Cameron Government to depart publicly from an internationally recognised standard to facilitate a few US based investors who want to make profits from the grave and memorial to over one thousand dead British sailors.

Of course, if the Advisory Group and stated UK policy could be ignored to suit Odyssey's business plan, so too could the MOD's plans for a press announcement of the gifting of HMS Victory, even if the MOD had been talking to the Maritime Heritage Foundation about it since at least November 2011.

“British warship, which went down in a storm in 1744 killing more than 1,000 sailors, could contain gold coins worth an estimated £500m”

True to form, in spite of the Ministry of Defence discussing press releases with the MHF as early as the 2 November e-mail, the story of the “gifting” was actually broken on 22 January 2012 via a story leaked to the Sunday Times newspaper, perhaps in timed to catch the opening of the stock markets Monday 23 January. Odysseys stock certainly carried on rising on the 23 January and the assertion that the wreck could contain £500 million in gold coins will not have hindered news editor’s decisions to cover the story or investors to stay with the company.

The leak was followed up the next day by a more low key official Ministry of Defence press release with no mention of gold and silver, but it was too late, the press and media was already responding to the Sunday Times article and Odyssey’s version of the story, treasure and all.

As the BBC wrote on the 22nd of January...

The remains of a 300-year-old warship are to be raised from the sea bed, according to reports.

The wreck of HMS Victory, a predecessor of Nelson’s famous flagship, was found near the Channel Islands in 2008.

The British warship, which went down in a storm in 1744 killing more than 1,000 sailors, could contain gold coins worth an estimated £500m.

Equally true to form, even during these last stages of the “gifting” process, Odyssey Marine Exploration received still more favourable treatment from the Ministry of Defence, this time even manipulating Parliamentary process.

When is a Victory not a Victory? Lobbying, “Clarifications” and the Missing Parliamentary Minute

The gift of HMS Victory to the Maritime Heritage Foundation was made without the publication of a departmental minute by the Ministry of Defence which would allow Parliament fourteen sitting days to scrutinise the gift.

A departmental minute is customary for all departmental gifts worth over £250,000 and one was indeed issued to cover the gift of Nelson’s HMS Victory to the new HMS Victory Preservation Trust on 6 March 2012 as is recorded in Hansard [6 Mar 2012 : Column WS145].

It can only be concluded that in the case of Admiral Balchen’s HMS Victory, the Ministry wished to avoid scrutiny of the gift which was certainly worth more than £250,000. Regardless of any “treasure” which may or may not be aboard the ship. Just the 75 bronze cannon identified by Odyssey are worth well in excess of this figure: the two bronze cannon lifted by Odyssey in 2008 were valued at approximately £127,000.

Proper Parliamentary Scrutiny might also have revealed that far from being an independent party, Lord Lingfield consistently lobbied throughout the negotiations for changes in the wording of the deed of gift which favoured Odyssey’s business plan, even to the detriment of the financial management of his own charity.

As late as 17 January 2012 Lord Lingfield was still seeking the following clarification in a letter to the DCS...

I would be so grateful if you would confirm my understanding of the terms of the deed dated 12th January 2012 transferring title of HMS VICTORY (lost 1744) to the Maritime Heritage Foundation, and that is that any coins or trade goods found on the wreck and not recorded as having belonged to the Crown at the time of the loss of the vessel, shall be considered personal property under the terms of the transfer deed.

The precise definition of coins, trade goods and personal property is crucial to Odyssey because under the publicly announced terms of their salvage contract, as agreed with the Maritime Heritage Foundation...

“Odyssey will receive the equivalent of 80% of the fair value of artifacts which were primarily used in trade or commerce or were private property and bear no direct connection to the construction, navigation, defense or crew of the ship, such as coins or other cargo.”

Effectively Lord Lingfield was seeking a clarification on behalf of Odyssey which would see his own charity forced to pay Odyssey an additional 30% on such items, for an 80% return

rather than the 50% return payable on other non-trade or private items such as weapons and the ship's fittings.

However, the most useful additional fact to come out of the MOD's 23 January press release was proof that Odyssey Marine Exploration's UK Public Relations Officer, Rebecca Blackwood of the high end and expensive, international PR Company, the Brunswick Group, was also supplying public relations support to the Maritime Heritage Foundation. A fact re-enforced by a further e-mail from the MOD on 16 February 2012 which admitted it needed to get control of the story because the public relations effort was all Odyssey's.

“It was recognised that HMG must make moves to make known its ownership of its role publicly. The public presentation of the case is being led exclusively by OME”

Here it should be noted that in the interests of fairness Heritage Daily e-mailed a series of questions relating to issues related in this article to both Ms Blackwood at the Brunswick Group and Odyssey's Tampa Press Office. Thus far neither Ms Blackwood, nor Tampa has even bothered to refuse to comment.

While Odyssey staged its PR campaign via press releases and the Sunday Times, the Advisory Group sat for the first time on 1 February 2012 and there can have been little which could have prepared the members for what happened.

“I hope that future meetings are different.”

Not that you would guess it from the bland minutes published by the Ministry of Defence, but the first meeting of the Advisory Group at the Ministry of Defence Main Building on 1 February 2012 was probably one of the more remarkable in recent UK archaeology. Under discussion was the very essence of underwater heritage management.

The meeting elicited the following incredulous response from Ian Oxley, English Heritage’s most senior Maritime Archaeologist, also released under the Freedom of Information Act.

-----Original Message-----

From: @english-heritage.org.uk]

Sent: 02 February 2012 07:59

To:

Subject: RE: VICTORY (1744) Advisory group – First Meeting

Thank you for Chairing the first Advisory Group meeting. I hope that future meetings are different. I think that the AG should meet again, and just the members, and soon.

Some observations from the meeting. It was surprising that the whole meeting was attended by the MHF and their proposed contractor, and the Gloucester party. I would have thought that the core business of determining Terms of Reference of the group should have been covered by the AG alone? The two presentations would then have been more appropriately seen separately. After which the AG should then have had the opportunity of discussing the presentations?

It is surprising that we have to explain (and more so debate) very basic principles of heritage management, and the implementation and management experience/practice of established legislation (PoW, nearly 40 years, PMRA, 26yrs, and MCA 2009). All of which is, and has been, freely available. Guidance on concepts of principle (Conservation and Management Plans for historic wrecks, Conservation Principles, Heritage at Risk (including historic wrecks), management of projects (MoRPHE)) is also widely available.

This calls into question the transparency and nature of access to advice. It might be suggested that the Foundation acquires such advice in relation to the historic environment, at trustee level, before they enter into commercial contracts with service companies? There are many people who could provide that input. It is disappointing that this brings back memories of the Sussex case where, after considerable time and debate, the contractor eventually had a panel of external advisors, as did the HMG with the Archaeology Review Group. All to demonstrate transparency and quality of advice/experience.

Happy to discuss,

Paragraph two makes it clear that, once again, Odyssey Marine Exploration Inc, or at the very least a representative of its paid consultant “Wreck Watch International”, was given privileged access to a decision making meetings of the Advisory Group by Ministry of Defence officials. In this case a Freedom of Information request reveals the alleged function was to “assist the Chairman MHF in making the presentation.”

Not only that, a second group also associated with Odyssey, the still anonymous finders of the wreck of another sovereign warship, HMS Gloucester, lost of Great Yarmouth in 1682

and who an e-mail reveals are allegedly receiving support from an un-named Middle Eastern Royal Family, were also present at the meeting, quite unannounced.

Although the Ministry of Defence claimed in an answer to an FOI request that they and the DCMS “wished to bring the expertise of the Advisory Group into discussions with the finders [of HMS Gloucester] and for the AG to receive a presentation on the discovery;” The terms of reference of the Advisory Group should have been nothing to do with either Odyssey or the Maritime Heritage Foundation and certainly not with the supposedly completely separate HMS Gloucester group.

The only common link is between the two sites is Odyssey/Wreck Watch International and the presence at the meeting of both the MHF and the Gloucester group plus Odyssey/Wreck Watch, can only be seen as an attempt by the Ministry of Defence and DCMS to intimidate and limit the freedom of discussion of the independent members of the Advisory Group, who were not even allowed to decide when and from whom to request a presentation.

However, Heritage Daily can now reveal that the real reason the HMS Gloucester group were present is that DCS was also proposing to transfer HMS Gloucester to the Maritime Heritage Foundation along with HMS Victory.

The MOD and DCMS attempt to stage a Shotgun Marriage

An e-mail from DCS dated 8 July 2011 reveals that the future management of Victory was seen as a template for the effective privatisation of the Royal Navy's historic ship wrecks by both the Ministry of Defence and the Department for Culture, Media and Sport. The management mechanism of choice would be the Maritime Heritage Foundation...

Thanks for this. The letter is actually quite timely – we've always intended to use the way ahead being developed for HMS VICTORY (1744) as a template for the management of this wreck (which pretty much everyone believes to be that of HMS GLOUCESTER (1682)), and we (MOD and DCMS) are now on the point of publishing on the DCMS website the report into the public consultation on the management of the former.

In his 4 February 2012 e-mail to DCS, Lord Lingfield expressed the hope that "in the fullness of time" the MHF would be able to oversee the excavation of HMS Gloucester too.

...and, of course, with the MHF came Odyssey Marine Exploration Inc.

Indeed, a further e-mail sent in the Autumn of 2011, shows that the HMS Gloucester group were making arrangements with Odyssey to undertake a photomosaic of the North Sea site.

In this light the 1 February meeting, as well as almost certainly being an attempt by the MOD and DCMS to impose on the AG the Odyssey/Wreck Watch International agenda regarding damage to the Victory site and to inhibit free discussion among the members of the advisory group, was also an attempt to force the members of the Advisory Group into a shotgun marriage with the finders of HMS Gloucester. The acceptance of this on the part of the members of the Advisory Group would have been a de facto acceptance of the MOD/DCMS plan for the future management of HMS Victory and HMS Gloucester and with that precedent then set, no doubt of other historic Royal Navy shipwrecks too.

Effectively the Ministry of Defence and the Department for Culture, Media and Sport were colluding to place the Royal Navy's underwater heritage into the hands of an amateur charity with no experience of maritime archaeology or large scale heritage projects and whose only technical expertise comes from an American commercial salvage company which has the overt intention of selling artefacts from such wrecks for the profit of its investors.

To cap it all, the Chair of the amateur charity was Lord Lingfield, leading supporter of the senior party of Government and a close political associate of the Secretary of State at one of the Ministries involved, Jeremy Hunt of the DCMS.

Of course none of this fundamental change in policy and the attitude to underwater cultural heritage was to be debated in public, let alone in Parliament.

However, even as the MOD and DCMS were manoeuvring to turn the Maritime Heritage Foundation into the Government's management company of choice for historic Royal Navy shipwrecks, the Ministry of defence was facing a warning from a senior officer at English Heritage that the Maritime Heritage Foundation was simply incapable of carrying out the job of managing even one historic shipwreck.

The 2 February e-mail from English Heritage warned the DCS that the Maritime Heritage Foundation trustees were ignorant of even the most basic heritage best practice and legislation and were also overly dependent on advice from Odyssey, all of which the author suggested, meant the MHF Trustees were not competent to offer appropriate contracts to services to companies such as Odyssey.

Nonetheless, without taking any outside advice, or putting the work out to tender, the MHF had already entered into what was effectively a commercial salvage contract with Odyssey; with Odyssey and its investors receiving commercial returns of between 50% and 80% of "fair value" after costs, on a project which was estimated to cost as much as £20 million.

Even as that devastating assessment was being digested by the MOD, Odyssey published yet another Press Release in Florida on 2 February 2012, making still more claims about ownership of the HMS Victory 1744 site, including repeating the claim of being "salvor in possession."

The core of the press release was a description of the financial returns the Victory promised Odyssey's investors. After detailing Odyssey's relationship with the Maritime Heritage Foundation the text explicitly detailed future plans for the excavation and disposal of material from the site, including raising the possibility of disposing of some artefacts for commercial rates of return. All these assertions were in apparent contravention of the UK Government's policy under the 2001 UNESCO Convention Annex.

The timing indicates that this Press Release was almost certainly designed to reassure Odyssey's US investors after it lost the final stage of the legal fight to prevent the return of 17 tons of silver coins from the Spanish Frigate *Nuestra Senora de las Mercedes* two days earlier on 31 January 2012. Indeed from a price of \$3.43 on 31 January, the price of Odyssey's stock spiked to \$3.69 on 2 February, before falling back again.

Whatever the motivation, Odyssey's assertions certainly came as a surprise to the Ministry of Defence and there were soon signs that the MOD officials might finally have woken up to just what kind of genie had been let out of the Odyssey bottle,

2 February 2012: A Press Release Too Far

It seems that for the MOD, the 2 February publication was a press release too far as the inherent contradiction between the two faces of Odyssey; the conscientious archaeological contractor on the British side of the Atlantic and the buccaneering salvage company about to return 50–80% after costs to its investors on the US shore, finally caught up with the company.

In Portsmouth MOD officials were quick to distance themselves from some of Odyssey's claims, particularly those with regard to personal property and "trade goods." To reinforce the new harder line Fleet DCS wrote to Lord Lingfield on 7 February 2012.

The VICTORY wreck site certainly comprises a wide area and for archaeological purposes has to be viewed holistically. While the site may contain a mixture of Crown and "personal" artefacts, you will understand that we would not be willing to sanction a search for the latter which would cause detriment to the site. In practice therefore, the site has to be treated as one and I know you recognise that both HMG and the Foundation will need to ensure that any action taken in respect of it is consistent with the provisions of the "Rules to the Annex" of the UNESCO Convention.

Finally, I am not convinced that the concept of "trade goods" is applicable in the case of HMS VICTORY and her cargo. The ship, a warship of the Royal Navy, was lost while returning from a naval mission to relieve the French blockade of British ships in the River Tagus in Portugal. We are thus firmly of the view that the ship, at the time of her loss, was operating on Government non-commercial service. It is I suppose possible – though as you are aware, we believe the possibility is remote – that the ship was carrying private consignments of goods, but this would have been in accordance with the practice at the time, whereby the provision of protection and safe passage to the property of private

citizens was a recognised military function of the Royal Navy, particularly during times of war.

This is the closest the Ministry of defence has come so far to telling Odyssey and the Maritime Heritage Foundation that it cannot contemplate their de-accessioning material for sale, or anything other than an archaeologically driven project in compliance with the UNESCO Annex. Heritage Daily believes it is telling that this statement came just days after the English Heritage e-mail with its damning assessment of the competence and state of knowledge of the Maritime Heritage Foundation.

That the MOD felt it needed to issue the warning "While the site may contain a mixture of Crown and "personal" artefacts, you will understand we would not be willing to sanction a search for the latter which would cause detriment to the site." is disturbing because it carries with it the implication that at some stage prior to 7 February, the MOD was given the impression that just such a targeted search might be undertaken. That is that Odyssey might prioritise a search for "Personal Artefacts" generating an 80% return over Crown artefacts which would return 50% under its salvage agreement with the Maritime Heritage Foundation.

That financial considerations might drive Odyssey's archaeology should not come as a surprise. In an interview on Bloomberg TV on 13 February 2012, Odyssey COO and President Mark Gordon stated that Odyssey have been working with the British Government

and a “non-profit foundation, the Maritime Heritage Foundation”. He then added, clearly for the benefit of the company’s investors...

“the great news is...the coins that could be recovered from the Victory will go into a collectors market” and “will be sold at bigger premiums over the bullion value...”

There was no mention of archaeology in the entire interview.

Against that background the MOD’s comments that it was not convinced by the concept of “trade goods” being applicable to Victory’s cargo will also not have gone down well with Odyssey’s senior officers.

Neither will the assertion, for the record, that the MOD’s opinion was that HMS Victory was a naval vessel operating on Government non-commercial service when she sank and that any private valuables she carried were carried as part of her regular duties as a Royal Navy warship. It is precisely this definition which was up-held by the US Courts in the case of the *Nuestra Senora de las Mercedes*; in a case which cost Odyssey \$2.6 million and the custody of 17 tons of silver coins. Although, in their only success, the company’s lawyers did succeed in getting \$20 per bucket as compensation for the 551 white plastic buckets the coins were returned in.

Finally Odyssey’s investors will not have been happy to note the MOD’s independent view, shared by the Wessex report, that while the vessel might have carried private consignments of goods; i.e. gold and silver specie, that possibility is considered “remote”.

The MOD/DCMS plan to gift HMS Gloucester to the Maritime Heritage Foundation was also a casualty of the fallout from the 1 February meeting at the MOD.

On 16 February English Heritage reported to the DCS that...

HMS Gloucester

The AG is minded to recommend that this wreck is not gifted to the MHF now given the concerns about that organisation's capacity. This may be reviewed later, perhaps not for at least a year.

However, in spite of these latest question marks over the its competence, the Maritime Heritage Foundation submitted its Project Design for the HMS Victory site on 4 March 2012. Of course the Project Design was entirely authored by Odyssey.

While a decision on the substantive portion of the plan, including excavation is understood to be pending and may not be made for some time, it is believed permission from the MOD to conduct non-invasive surveys on the HMS Victory site was granted. Indeed, AIS tracking indicates the Odyssey Explorer has been at sea in the area where HMS Victory lies during June 2012. However, in spite of the project progressing, albeit from Odyssey’s point of view

slowly, the attempts to intimidate and discredit English Heritage continued in a very public forum.

Someone has “blundered”– Odyssey Attacks English Heritage

On 3 June 2012 Odyssey’s favourite news outlet, the “Sunday Times”, ran a story accusing English Heritage of a “blunder” in allowing the Wessex Archaeology Report to disclose the site of the Victory to other commercial salvors. The article also quoted Lord Lingfield as stating that anyone who did not follow the Odyssey line and instead believed the ship could be monitored in situ were “entirely deluded.” Lord Lingfield also stated that Ministers were facing “an urgent decision.”

This accusation of an English Heritage “blunder” was swiftly demolished when it was pointed out by Heritage Daily that Odyssey’s own CEO, Greg Stemm, had stated on camera “people track us all the time,” using the Automatic Identification System which all ships of 300 tons or more must carry. The statement came in an episode of the Discovery Channel series “Treasure Quest”, effectively an extended infomercial for Odyssey’s work, recorded during the search for HMS Victory in 2008, well before the publication of the Wessex Report.

Odyssey’s own reports also demonstrated the distinctive yellow and white hull of the Odyssey Explorer was on station at the Victory site when trawlers were fishing in the immediate area, rendering any attempt at secrecy futile. If you want to know where HMS Victory lies ask in the pubs of Salcombe where you can probably find out for the price of a pint.

However, Lord Lingfield’s comment could be seen as more sinister, suggesting that he and Odyssey, might be attempting to use his privileged access to the upper echelons of the Conservative Party to appeal to Ministers over the heads of officials and English Heritage.

It was certainly in Odyssey’s interests to try to discredit English Heritage. In its role as statutory advisor to the Government, sitting on the Advisory Group, it was English Heritage which was taking the lead in pointing out the multiple failings of the Maritime Heritage Foundation. Without the discredited Maritime Heritage Foundation, Odyssey would have no contract and no access to HMS Victory unless it negotiated directly with the Ministry of Defence. A situation where there can be no doubt that English Heritage would place compliance with the UNESCO Annex at the top of the agenda.

This was a high stakes game and it soon became clear that by using the megaphone of the “Sunday Times” Odyssey had repeated its error of 2 February and badly overplayed its hand. Within one relatively short article Odyssey managed to appear both as a corporate bully in trying to intimidate English Heritage; as yet another would be beneficiary of the culture of political cronyism which is increasingly surrounding the Cameron Government and as completely inept in raising the high profile accusation of endangering the wreck, which could be shot down so easily.

Perhaps the key to Odyssey's public attitude, which now bordered on the reckless lies in Lord Lingfield's comment made on 4 February regarding Odyssey's disastrous 2 February press release. He told the DCS that Odyssey was "ever in a tearing hurry..."

"ever in a tearing hurry..." the future of the HMS Victory Project

Like any commercial company Odyssey Marine Exploration Inc. attempts to control information, timing releases of information to support its stock price and aid its cash flow. Cash flow is critical because without the confidence of investors retaining or adding to their share portfolio and new investors buying a stake in the company, Odyssey would sink under its accumulated debts and on-going running costs.

For example, it is estimated that to keep the Odyssey Explorer at sea could cost as much as £30,000 per day and Odyssey has only made a profit in two years of its fifteen year existence. In just the first quarter of 2012 the company made a loss of \$5,481,799 and Odyssey's accumulated losses are estimated to be over \$123 million.

However, Odyssey is not in charge of the timing of work on the Victory. Neither does it have a monopoly of the flow of information about the project. This article is proof of that. Certainly, at the time of writing the Heritage Daily understands that the "tearing hurry" has slowed to a crawl. Hence the crude attempt to bully English Heritage and Lord Lingfield's overt public lobbying of Ministers on behalf of Odyssey in the Sunday Times.

Meanwhile, in recent weeks two fresh blows have befallen the HMS Victory project from outside.

First, in reply to a Freedom of Information Act request from Mr Robert Yorke, chairman of the Joint Nautical Archaeology Policy Committee, an independent NGO whose experts have done much to expose the murky world of the MOD and Odyssey's collusion, the MOD was forced to admit it had no record of any attempt to conduct due diligence regarding the funding of the Maritime Heritage Foundation.

This omission places the Ministry and the Maritime Heritage Foundation, in direct contravention of Rule 17 of the UNESCO Annex and British Government policy.

Secondly on Saturday 23 June Mr Richard West, the direct descendant of Admiral Balchen through Admiral Balchen's daughter Frances, whose family had corresponded with Greg Stemm in late 2010 and 2011, published a letter to "The Times," in which he stated...

"Admiral Balchen is my direct ancestor and I am deeply concerned about the fate of his war grave.....that scant regard is being taken for the descendants of the crew. This is after all a grave.....any investigation of the site must be painstakingly guided by independent experts with no financial interest and carried out for the benefit of our nation.....Most importantly of all, my ancestor's name must not be used by advertising men to pretend that the profit-seeking activities of a treasure-hunting company are archaeology done in the public interest"

In a subsequent public statement Mr West also confirmed that Sir Robert Balchin, Lord Lingfield, could not be a descendant of Admiral Sir John Balchen and the family had professionally researched genealogies to prove it: a statement which finally demolished the suggestion by Odyssey that he was.

The HMS Victory Omnishambles

Omnishambles, the delicious concept of a multiple screw up in all areas invented by the writers of political satire “The Thick of It” is an overused word among political commentators at the moment. However, it surely applies to this poisonous catalogue of privileged access to Ministers and Officials; back channel deals; misrepresented names; manipulated Parliamentary process; negotiations conducted by press release aimed at shoring up share prices for American investors and a “charity,” chaired by a senior Conservative Peer which operates as a virtual front for a single commercial interest– Odyssey Marine Exploration Inc.

However, in spite of these revelations, and in the full expectation there will be more and perhaps worse to come, the exact fate of HMS Victory, the unique collection of artefacts representing the “Wooden World “of the 18th century Royal Navy she contains, not to mention the mortal remains of what may be many of her crew, remains in the balance.

What is clear is that however the many very sensitive archaeological and personal issues are resolved in a strictly procedural and legal sense; Odyssey’s clear attempt to manipulate the Balchen family name has cost the company any moral authority to salvage the ship for the profit of its stockholders. That is if it ever had such authority in the first place.

Given those circumstances, it is also inconceivable to an outsider that the Maritime Heritage Foundation; a British charity chaired by a Peer of the Realm who is also a leading member of a Party of Government; could continue to allow itself to be party to the kind of commercial salvage Odyssey wishes to undertake.

If only to save the reputations of its Trustees and patrons, the MHF must break the link with Odyssey and Wreck Watch International, publicly commit to upholding the UNESCO Annex and reconstitute itself with the support of genuinely independent experts in maritime archaeology, project management and above all fund raising.

Indeed, there are encouraging signs, such as the DCS letter of 7 February and in the apparent rowing back on the plan to also “gift” HMS Gloucester to the MHF, that the Ministry of Defence may be assisting this process by starting to treat Odyssey as it always should have done. That is as a commercial salvage company out to make a profit for its shareholders, not as a privileged partner and back stairs archaeological advisor.

However, the toxic combination of political cronyism, longstanding collusion and the ideologically driven demand of the Cameron government for cost cutting and deregulation may yet allow an American commercial salvage company to exploit for the profit of its investors, what the public and not least the West family, would regard as a British War Grave.

If this does happen it will be a scandal unparalleled in recent UK history and the Cameron Government will have shown that Britain’s past, even the remains of its lost servicemen, is for sale to the highest bidder.

This is not as farfetched as it might seem. The Ministry of Defence has so far refused to take any active steps to even designate and protect three cruisers, HMS Cressy, HMS Hogue and HMS Aboukir and the 1459 officers and men who were lost with them off the coast of Holland on 22 September 1914. Nor is the MOD showing any sign of wishing to pursue through the courts the salvage companies which are plundering these and other sovereign wrecks for copper, bronze and high grade steel.

Meanwhile the Treasury is currently resisting requests under the Freedom of Information Act asking whether it has discussed using historic shipwrecks as a means of generating revenue, citing commercial interests as the reason for not releasing material it admits it holds.

The UK has just celebrated Armed Forces Week, when the Government asks the nation to remember the service and sacrifice of the Armed Services and their families. In that context Heritage Daily asks, are our war dead, even those from hundreds of years ago, now seen as just another commodity to be sold to generate revenue for George Osborne's attempts to get the economy back on track?

For the sake of morale of our current servicemen and women and their families and in memory of the service and sacrifice of Admiral Sir John Balchen and the crew of HMS Victory, David Cameron must prove the answer is no.

Andy Brockman for Heritage Daily©

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