

**Trends in Art Crime**  
**2020 Federal Bar Association Art Law & Litigation Conference**  
**February 6, 2020, New York, NY**

- A. Why is art a good tool for criminals?
- a. The legitimate art market is itself enormous—estimated at \$67.4 billion worldwide at the end of 2018. According to the United Nations Office on Drugs and Crime, the underground art market, which includes thefts, fakes, illegal imports, and organized looting, may bring in as much as \$6 billion annually. Portion made up of money laundering and other financial crimes is in the \$3 billion range.<sup>1</sup>
  - b. So, why?
    - i. Art itself is usually easily moved across borders, transported, hidden, difficult to track
    - ii. Valuation is subjective
      1. Even with most famous artists significant disparity in prices paid, and mid-level works can be sold at wide-range
    - iii. Privacy of Industry and inconsistent regulations
      1. In the industry privacy is respected and valued. Has been an industry based on trust, a handshake industry.<sup>2</sup>
  - c. Law enforcement now say that excessive secrecy has become a drawback because more and more money launderers have discovered that the art market can be used as an easy conduit. As noted by the FBI and Interpol, “in comparison with other trade sectors, the art market faces a higher risk of exposure to dubious financial practices” because “the volume of legally questionable transactions is noticeably higher than in other global markets.”<sup>3</sup>
- B. Types of Art Crime
- a. Looting (includes Terrorist Financing)
  - b. Theft
  - c. High-End Authenticity Fraud
  - d. Complex Financial Crimes Money Laundering

---

<sup>1</sup> <https://theantiquitiescoalition.org/the-art-of-money-laundering/>

<sup>2</sup> “Art is a very attractive vehicle to launder money,” says Peter B. Hardy, a former US prosecutor who now advises corporations and industries on compliance with anti-money-laundering requirements. “It can be hidden or smuggled, transactions often are private, and prices can be subjective and manipulated—and extremely high.” <https://theantiquitiescoalition.org/the-art-of-money-laundering/>

<sup>3</sup> <https://theantiquitiescoalition.org/the-art-of-money-laundering/>

- e. Art Crime as a Canary in Coal Mine political implications that art foretells.
- C. Explanation of Topic Title: Beauty Provoeketh Thieves Sooner than Gold
- a. From Act I, Scene 3 of William Shakespeare's "As You Like It"
    - i. Comes from subtitle of law review article "To Catch an Art Thief: Using International and Domestic Laws to Paint Fraudulent Art Dealers in a Corner." Amber Slattery, 19 Villanova Sports & Entertainment Law Journal 827 (2012)
    - ii. Other motivators like those already mentioned, but this captures a sentiment and draws on basically civilization-long and wide interest in artistic endeavors from music to sculptures to paintings: "There is something about great art that can move otherwise law-abiding people to seek to acquire it even by taking advantage of the chaos and desperation of war."<sup>4</sup>

#### D. LOOTING – CULTURAL PROPERTY

- a. Antiquities are "highly susceptible to looting because artifacts are very valuable; antiquities trace the evolution of a people, and can be easily liquidated by selling to museums, auction houses, and private collectors."
- b. *United States v. Lorin & Son, LLC, and Francois B. Lorin*, S.D. Fla. 13-cr-20831
  - i. Defendants created false documents to justify provenance and false invoices to avoid interdiction of cultural heritage items and fine art that pre-dated 907 A.D.
  - ii. The pieces were subject to a MOU between the U.S. and China that prohibited importation of cultural heritage into the U.S. without prior specific government approval.
  - iii. Charged with obstructing Customs and Border Protection's ability to carry out duties.
  - iv. Principal sentenced to 3 years of probation, Defendants each paid \$25,000 fine and forfeited the cultural heritage
- c. Terrorism Financing
  - i. ISIS "raked in massive profits" from the "billion-dollar black market in ancient artifacts."<sup>5</sup> ISIS instituted looting "on an industrial scale."<sup>6</sup>

---

<sup>4</sup> Mary Ellen O'Connell, *Beyond Wealth: Stories of Art, War, and Greed*, 59 Ala. L. Rev. 1075, 1075 (2008).

<sup>5</sup> Will Freeman, *How ISIS Is Making a Fortune on the Black Market for Ancient Artifacts*, Think Progress, Jul. 10, 2014 (accessed on 12/29/2015)

<sup>6</sup> Rachel Shabi, *Looted in Syria and Sold in London: The British Antiques Shops Dealing in Artifacts Smuggled by ISIS*, The Guardian, July 3, 2015 (accessed 12/29/2015).

- ii. Seized flash drives that contained ISIS's detailed financial records included financial transactions involving illicit antiquity trafficking.<sup>7</sup>
  1. In only one region, ISIS had pocketed more than US\$ 36 million from smuggling looted cultural property.<sup>8</sup>
- iii. In addition to looting and selling artifacts itself, ISIS created its own trafficking network,<sup>9</sup> ISIS allowed locals to search ancient sites for artifacts and retain a percentage of compensation received for the items.<sup>10</sup>
- iv. ISIS used an "increasingly systematized method of collecting and documenting profits from the illegal artifact trade".<sup>11</sup>
- v. The looted cultural artifacts were not only sold on the black market in Europe and the United States,<sup>12</sup> but were also found in British antiques shops and even New York auction houses.<sup>13</sup>
  1. Dealers sold artifacts that were "highly distinctive of [Syria]," but label the pieces Indian, Jordanian, or simply "near-eastern."<sup>14</sup>

## E. THEFT

### a. Nazi-Era Theft Cases

- i. Still being litigated
- ii. Portrait of Wally: original owner Bondi forced to give Wally to Nazis in 1939, Wally was then seized by US troops during WWII and after WWII given to Austrian government. In 1953 Bondi asked her friend and famous Austrian collector, Dr. Rudolph Leopold to help her get the painting back. Instead Leopold acquired Wally and never told her. When Bondi found

---

<sup>7</sup> Heather Pringle, ISIS Cashing in on Looted Antiquities to Fuel Iraq Insurgency, National Geographic, June 27, 2014 (accessed 1/15/2016)

<sup>8</sup> Heather Pringle, ISIS Cashing in on Looted Antiquities to Fuel Iraq Insurgency, National Geographic, June 27, 2014 (accessed 1/15/2016)

<sup>9</sup> Heather Pringle, ISIS Cashing in on Looted Antiquities to Fuel Iraq Insurgency, National Geographic, June 27, 2014 (accessed 1/15/2016)

<sup>10</sup> Ben Wedeman and Dana Ford, Video Shows ISIS Militants Destroying Antiquities in Iraq, CNN News Feb. 27, 2015 (accessed 1/15/2016).

<sup>11</sup> Will Freeman, How ISIS Is Making a Fortune on the Black Market for Ancient Artifacts, Think Progress, July 10, 2014 (Accessed 12/29/2015).

<sup>12</sup> Following the Trail of Syria's Looted History, CBS News Sept. 9, 2015 (accessed 12/29/2015).

<sup>13</sup> Rachel Shabi, Looted in Syria and Sold in London: The British Antiques Shops Dealing in Artefacts Smuggled by ISIS, The Guardian, July 3, 2015 (accessed 12/29/2015).

<sup>14</sup> Rachel Shabi, Looted in Syria and Sold in London: The British Antiques Shops Dealing in Artefacts Smuggled by ISIS, The Guardian, July 3, 2015 (accessed 12/29/2015).

out she got lawyers and unsuccessfully tried to get the painting back until her death in 1969. Leopold's collection eventually became part of the Leopold Museum in the 1990s, and in 1997 the Leopold museum loaned part of its Schiele collection, including Wally to the Museum of Modern Art, MOMA, in New York. The United States instituted a civil forfeiture action and a magistrate issued a federal seizure warrant for Wally, based on the a probable cause finding that Wally was stolen property imported into the United States in violation of federal law, specifically the suit focused on the National Stolen Property Act, 18 USC 2314. Bondi's estate, the Leopold Museum and MoMa all field claims to the painting. After ten years of litigation, the Court ruled in summary judgment and found that Wally had been Bondi's personal property which was stolen by the Nazis, and remained stolen when it was imported into the US. Court left one issue for trial: whether the Leopold Museum did not know that Wally was stolen when it imported Wally into the United States. Instead of going to trial, the Leopold settled for \$19 million in exchange for Wally. And Wally remains in the Leopold today (SLIDE)

b. Recent Theft Cases

- i. *United States of America v. James Meyer*, S.D. N.Y. 13-cr-604
- ii. *United States of America v. Pedro Antonio Marcuelli Guzman and Maria Martha Elisa Ornelas Lazo*, S.D. Fla. 12-cr-20559

F. HIGH END AUTHENTICITY FRAUD

- a. *United States of America v. Glafira Rosales*, S.D. N.Y. 13-cr-00518
- b. *United States v. Jose Carlos Bernantinos Diaz, Jesus Angel Bergantinos Diaz, and Pei Shen Qian*, S.D.N.Y. 14-cr-00217

G. COMPLEX FINANCIAL CRIMES/MONEY LAUNDERING

- a. Money laundering federal crime codified at Title 18 United States Code 1956 and 1957. Criminalizes the concealment and spending of illicit proceeds.
- b. Criminals use the theories of placement, layering, and integration to conceal proceeds in order to be able to use the proceeds.
  - i. Placement: have illicit proceeds, need to place it into the financial system or bank to get it into usable form (deposit it into multiple counts, mules, etc), or buy goods (IRS Form

8300 requires merchant that receives more than \$10k in cash to file, so a gallery would be required to file that form)

- ii. Layering: engaging in additional transactions designed to move tainted funds further away from the source, either fictitious sales, invoices, transferring it into other countries, etc.
- iii. Integration: integrate into regular commerce. Buy a home, buy a piece of art etc.

H. Art market: susceptible to money laundering?

- a. Privacy respected valued, handshake industry, intermediary bidding.
- b. A piece of art can be used for layering purposes, or for integration purposes.
- c. Art is easily moved across borders
- d. Inconsistent regulation
- e. Freeports: ultra-secure warehouses for the collections of millionaires and billionaires, exist in Switzerland, Luxembourg, and Singapore and offer a variety of tax benefits because the stored goods are considered “in transit”.<sup>15</sup> The Economist reports that the Freeport near Geneva stores \$100 billion of art. Once inside the Freeport, the art can be sold privately and anonymously to other buyers.
- f. Perceived risk but how much is really occurring? Yes, at least recent example is case study of the United States v. Panagiotos Kyriacou,<sup>16</sup> more commonly known as the Matthew Green Case.
  - i. United States charged British art dealer Matthew Green with using a mid-level Picasso painting to help launder more than \$9.2 million (£6.7 million).<sup>17</sup>
  - ii. Investigators allege that the proposed Picasso sale was connected to a \$50 million stock scam. Green, the son of prominent London dealer Richard Green, was a co-director of the Richard Green Gallery and Mayfair Fine Art.
  - iii. Green was one of ten people and corporations named in the 29-page indictment. The indictment, brought by the Eastern District of New York, focused on a stock manipulation scheme and violations of US law

---

<sup>15</sup> “Art and Money Laundering” Peter Hardy, The National Law Review (March 20, 2019).

<sup>16</sup> E.D.N.Y. Docket No. 18-CR-102

<sup>17</sup> Indictment, E.D.N.Y. Docket No. 18-CR-102

requiring citizens and taxpayers to report offshore and international holdings to the IRS.<sup>18</sup>

- iv. Undercover FBI agents recorded their conversations with defendants. Overall scheme was to defraud the investing public of millions of dollars through deceit and manipulative stock trading, and then worked to launder the fraudulent proceeds through off-shore bank accounts and the art world, including the proposed purchase of a Picasso painting,”
- v. Two of the other defendants, Beaufort Securities investment manager Peter Kyriacou and his uncle Aristos Aristodemou, suggested to an undercover FBI agent the possibility that he launder the proceeds of his illegal stock manipulation with an art transaction, according to the indictment. Kyriacou and Aristodemou then offered to introduce the agent to Green, and Aristodemou explained that the art trade is “the only market that is unregulated” and advised that art was a profitable investment because of “money laundering,” according to court papers.
- vi. Kyriacou, Aristodemou, and Green allegedly proposed that the undercover agent purchase, from Green, Pablo Picasso’s *Personnages* (1965). A Picasso painting matching that title and date was last offered publicly at an Impressionist and Modern evening sale at Christie’s London in 2010, according to the artnet Price Database. At the time it carried an estimate of £3 million to £5 million (\$4 million to \$7 million) and failed to sell.<sup>19</sup>
- vii. According to the indictment, on February 5, 2018, the agent met with Kyriacou, Aristodemou, and Green in London. During the meeting the undercover agent

---

<sup>18</sup> <https://news.artnet.com/art-world/matthew-green-charged-money-laundering-us-1236929>

<sup>19</sup> Past owners of the painting, as listed in the provenance, or history of ownership, include a Paris gallery, a private collection in Switzerland, a private collection in Sweden, a Berlin gallery, and an unknown buyer who acquired it in 2000. It is not clear when Green acquired the painting or if he was the actual owner or was offering to sell it on behalf of a consignor. A source familiar with the work told artnet News that the painting is currently on loan to a museum in Denmark.*Id.*

“once again explained his involvement in stock manipulation deals.” The defendants proposed that, after buying and maintaining ownership of the painting for an unspecified period of time, Green would arrange for the resale of the Picasso and then transfer proceeds back to the undercover agent through a bank in the US.

- viii. During the meeting, Green said that, in part, “it was important for him to make more than a five percent profit on the transaction so that he would not be asked why he was ‘in the money laundering business,’” according to the indictment. He further stated that he would address an invoice for the painting to a company that the undercover agent specified.
- g. Green case is a good example—complex series of transactions, both layering and integration. And uses a mid-level work by a well-known artist.
  - i. Mid level work by well known artists tend to be most susceptible because super high end get too much attention but the recognizable nature of the artist justifies a higher than normal sales price.
  - h. Civil forfeiture actions to combat money laundering: Edemar Cid Ferreira, a former Brazilian banker was convicted of money laundering and other offenses and had converted some of his proceeds into a significant art collection. Jean Michel Basquiat’s ‘Hannibal’ had been appraised at \$8 million Ferreira smuggled it into the US from Brazil via the Netherlands and stated the contents of the shipment were worth \$100. DOJ instituted a civil forfeiture action and seized the piece.<sup>20</sup>
- I. What should you tell your clients/what should be on your clients’ radar and what is State of Law/What is being done to address and or prevent these kinds of crimes.
  - a. In Europe: The Fifth Money Laundering Directive (5AMLD) went force on January 10, 2020. Building on the regulatory regime applied under its predecessor, 4AMLD, 5AMLD reinforces the European Union's AML/CFT regime to address a number of

---

<sup>20</sup> “Art and Money Laundering” Peter Hardy, *The National Law Review* (March 20, 2019).

emergent and ongoing issues. The impact of 5AMLD will be far-reaching.<sup>21</sup>

- i. requires art dealer vendors etc to be compliant with new higher level of anti money laundering procedures (anyone selling in Europe). Threshold of 10k euros. Also extends coverage to people trading in art, those acting as intermediaries in trade of art and those storing art in freeports. Requires the filing of Suspicious Activity Reports (called SARS).
- The AML Standards for Art Market Operations: set forth by the Basel Institute on Governance (an independent not-for-profit).
    - o Focus on risk based approach to establishing measures to mitigate money laundering risks.
    - o Also apply to anyone trading in art, including intermediaries.
    - o Meant to address three risk categories: (1) the client's identity; (2) the provenance of the art object; and (3) the origin of the buyer's funds which are funding the transaction
  - USA:
    - o May 2018 Representative Luke Messer of Indiana, who serves as Republican policy committee chairman on the House Financial Services Committee, introduced a bill proposing that art and antique dealers be added to the Bank Secrecy Act, also known as the Currency and Foreign Transactions Reporting Act. The law was passed by Congress in 1970 and is overseen by a division of the US Treasury Department.
    - o HRH 5886 illicit art and antiquities prevention act, introduced in 2018, stalled but ongoing interest, would extend bank secrecy act regulations to the art market.
    - o Banks would have to file suspicious activity reports. Dealers, galleries would have to have an AML procedure written policy with controls in place. Control would be a "know your client form," monitoring, sanction screening. Bank secrecy officer someone who oversees program. Training of staff what is AML and what are our procedures, how we comply. Independent party audit/review.
  - In the view of many art dealers, the legal changes in both the United States and the European Union would strip the vendors of a major selling point—the ability to offer anonymity to clients and preserve the opacity of the art market.

---

<sup>21</sup> <https://complyadvantage.com/blog/5mld-fifth-anti-money-laundering-directive/>

Trends in Art Crime  
Lindsey Lazopoulos Friedman, 9